

Comparing Cannabis Control: Convergence and Divergence in England & Wales and the Netherlands

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Declarations and Statements

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This Work has not been submitted in substance for any other degree or award at this time or any other university or place of learning, nor is being submitted concurrently in candidature for any degree or other award.

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Abstract

This thesis explores the nature and extent of convergence and divergence in cannabis control in England & Wales and the Netherlands through an examination of the policy-making process. Over the past couple of decades a number of sociological theories of crime control have pointed towards converging tendencies in the growth of ‘punitiveness’ across advanced Western countries. One of the most influential accounts put forth has been David Garland’s *The Culture of Control* which suggests that the transition to late-modernity has brought with it new and reconstructed risks and threats, and ambivalent strategies of responding to issues of crime and security.

However, despite the usefulness of such bodies of work which attempted to map the ‘master patterns’ of crime control, there is a need to empirically examine how a culture of control unfolds across different national and subnational spheres. An under-examined area of criminological research is the very nature of policy development and negotiation, with tendencies to read off policy outcomes without a deeper exploration of how such responses come into being and unfold across different national and subnational spaces.

The area of drugs policy, and specifically regarding cannabis, provided an interesting focus in which to test and build upon *The Culture of Control*, and particularly so in England & Wales and the Netherlands who have traditionally exhibited differences in their approaches to cannabis policy. Recent policy changes regarding cannabis suggest a toughening of approaches in both jurisdictions, with the reclassification from Class C to Class B in England & Wales in 2009, and the modifications to the ‘coffeeshop’ *gedoogbeleid* (‘tolerance policy’) in the Netherlands in 2012/13.

A thematic analysis was conducted on empirical data from ‘elite’ semi-structured interviews (n=62) as well as key policy documents. The findings suggest that there have been convergent patterns in the way in which problems and policy alternatives have been constructed and molded to fit particular political agendas which shifted policy in a more repressive direction; but there are crucial differences in institutional and political cultures which still generate significant points of divergence across and within these jurisdictions. Consequentially, although ‘contrasts in tolerance’ may not be as marked as once described before (Downes 1988), there are still key components of the policy process in the Netherlands which more readily enable resistance against overly punitive policy movements, and foster the potential for a more pragmatic approach towards cannabis control.

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Chapter I

Introduction

1.1 Exploring Explanations of Contemporary Crime Control

This study explores the issue of inter- and intra-national policy convergence and divergence in crime control, and how similarities and differences in the policy-making processes of different nations may be best understood and explained. It does this through an empirical study of legislative changes in relation to cannabis control in two Western European states, England & Wales and the Netherlands.

Over the past century, and particularly the past forty years or so, it has become increasingly clear that the conditions of human existence have undergone rapid social, economic and technological transformations that have changed the way in which humans interact and counter-act across all types of social life. During this period, social scientists have alluded to vast changes in societal organisation which have become tied to processes of 'globalisation' and a shift away from modernity (see Giddens 1999; Bauman 2000; Beck 2000; Castells 2001). The exact nature of contemporary configurations of social life are deeply contested with such theorists arguing that the shift is one towards a more 'fluid', 'reflexive', 'high', or 'late' form of modernity. Such conceptualisations are premised upon the continued existence, and lingering historical residues, of modern social institutions and arrangements which have adapted, reacted and transformed in the wake of a changing social landscape rather being replaced through an entirely new and distinct epoch.

But what do such a wide-ranging set of changes mean for crime and its control? How do we attempt to understand and conceptualise what appear to be quite dramatic transformative processes? And how useful are such endeavours at capturing social reality? The field of crime and its control is no exception to these patterns and is used to further indicate such tectonic movements. New threats have been generated and old risks exacerbated which have fundamentally questioned 'modern' responses to crime, and in their wake, have given rise to a more risk-conscious set of strategies which attempt to manage and control deviant populations through ever more punitive means.

For sociological criminologists, attempts to map the contours of the contemporary landscape of crime control have been no mean feat, and a number of accounts have attempted to identify the 'master patterns' characterising the field (e.g. Cohen 1985; Young 1999; Christie 2000; Simon 2007; Hallsworth and Lea 2011; Wacquant 2009). One of the most influential criminologists who took on the challenge of such an endeavour was David Garland

who suggested that we have shifted towards a 'culture of control' (Garland 2001). The impact of this particular piece of work has had a profound impact upon criminological understandings, with the influential Loic Wacquant (2010:206-207) describing it as '...the most sweeping and stimulative account of the nexus of crime and social order put forth since Foucault'.

This research project critically tested this particular theoretical framework to explore in depth the nature of how a culture of control unfolds across different national and local contexts in relation to the policy-making process. It is worth stating clearly here what this is a study of, and what it is not. It is an empirical study of the policy-making process in two jurisdictions which focuses on two exemplifying cases in the arena of cannabis control, with a view to demonstrating the limitations, as well as contributions, of Garland's *The Culture of Control*. Thus, it is not intended to be an over-arching study of all aspects of cannabis regulation from transnational agreements to the details of policing and sentencing at the local level. Given this premise, it is worth outlining the core features of Garland's arguments.

1.2 The Culture of Control

The culture of control thesis has had an authoritative appeal within the academy, and pulls together an array of seemingly disparate theoretical approaches into a singular master narrative. A 'theoretical scaffold' is constructed through drawing upon structuralism, functionalism and interpretivism; and exemplary theorists are combined, such as Marx, Hirst, Foucault, Freud, Weber, Durkheim, Geertz, Elias and Bourdieu (Garland 2004). At the heart of Garland's work is the notion that wide-ranging social, political and economic transformations, amounting to a shift to late-modernity, have altered fundamentally the field of crime control and criminal justice. For Garland, such a shift has brought with it new and altered risks, threats, ways of being and ways of thinking, which have led to the eclipse of 'penal-welfare' responses by a set of ambivalent 'schizoid' strategies. These attempt to both 'adapt' to increasing administrative burdens, whilst simultaneously reaffirming the 'myth' of state sovereignty in the provision of law and order through 'denial' and 'acting out' (Garland 1996; 2001).

Penal-Welfarism

The starting point of Garland's (1996; 2001) analysis of developments in crime control lies in the assertion that from the early 20th century up until c.1970s, responses to crime were

enveloped within a system of 'penal-welfarism'. Loader and Sparks (2007:79) outline three interlocking axioms of this paradigm. First, it was assumed that crime was conceptually unproblematic and geographically and socially delimited; second, that policy and practice was based upon a causal theory that understood crime as a presenting symptom of deep-seated social problems; and finally, that there was an attachment to the idea of crime control as the province of 'experts' and expert knowledge.

The leading experts at this time broadly agreed on the basic principles of 'modern' criminology, '...with its faith in instrumental reason, its vision of the technocratic state and its commitment to social progress and social engineering' (Garland and Sparks 2000:194). Due to the 'deferential' nature of British political culture at the time which emphasised a top-down approach to governance (Almond and Verba 1989), this gave elites, such as practitioners, and academics, working within and around government substantial room for manoeuvre in advancing programmes for social reform without being questioned by citizens (Ryan 2003). Thus, much decision-making was done behind closed doors by liberal 'platonic guardians', hidden away from public scrutiny (Loader 2006).

The dominant explanatory perspective in this period was based upon a positivist and 'rehabilitative ideal', and responses aimed to reduce crime through identifying the cause of the criminal behaviour and treating it through individualised programmes of reform. A dominant belief was that through social reform and treatment, criminality could be reduced and ultimately eradicated. Such correctionalist criminology '...assumed without question the possibility and desirability of reintegrating delinquents and deviant individuals' (Garland 2001:44). Thus, the use of imprisonment in a retributive sense was seen as counter-productive to the hegemonic principles of penal-welfarism.

The Crisis in Penal-Welfarism and the Shift to 'Schizoid' Crime Control Strategies

Garland (2001) suggests that from around the 1970s onwards, the dominant ideal of rehabilitation was increasingly questioned which led to a policy predicament of how best to respond to crime and deviance. This predicament was conditioned by two social 'facts' that occurred from this period onwards: the normality of high crime rates and the acceptance of state limitations in providing 'law and order'.

Crime rates had been steadily rising since the early 1950s in England & Wales and from the mid-1960s they grew exponentially until the mid-1990s (Maguire 2012). Whilst doubt has been shed on the use of officially recorded crime statistics as a representation of the crime problem, there was another important dimension that was exacerbated regardless

of its true extent: fear of crime. Garland argues that crime transformed into an organising principle of everyday life, as something to be 'kept in mind' and 'normalised' into our social existences (Garland 1996; 2001). It is in this sense, that high crime rates became accepted as a normal social fact.

Faced with the overriding sentiment that 'nothing works' (Martinson 1974), and an aetiological crisis of how to respond in a vastly changing social, cultural, economic and political landscape, Garland suggests that this created a 'policy predicament'. On the one hand, the state could no longer continue its role as the sole provider of law and order as responses were doing little to counter the social strains of late-modernity. However, in an increasingly politicised and open territory of crime control, where citizens' fear and experience of crime had grown substantially, the political ramifications of withdrawing state sovereignty over such issues would be catastrophic.

The arguments presented by Garland suggest that contemporary responses to crime are caught within a contradictory and ambivalent strain between taking heed of its own limitations whilst also endeavouring to be 'tough on crime'. Emerging out of the vast social changes experienced, and in response to this predicament, is a culture of control. Garland (2001:174-190) argues that this is formed around three central elements: First, a re-coded penal-welfarism, in which the penal aspect has become 'more punitive, more expressive, more security-minded', whilst the welfare aspect has become 'more conditional, more offence-centred, more risk conscious' (ibid:175). Second, a criminology of control, which has seen the rise of competing conceptualisations of criminality in reaction to the perceived failures of the rehabilitative ideal. The 'criminologies of everyday life' have become less concerned about a person's welfare, and more centred on managing risk and space, whilst the 'criminologies of the other' assume a deeply divisive position between 'us' hardworking, upstanding citizens, and 'them' 'opaquely monstrous creatures beyond or beneath our knowing' (ibid:184). Finally, the culture of control is characterised by an economic style of reasoning, whereby managerialist concerns of costs and efficiencies have replaced a more social welfare concern. In producing his analysis, Garland (ibid:6-20) points to a number of changes in crime control which are indicative of a culture of control based upon 'adaptive' and 'non-adaptive' strategies.

Adaptation

In the former sense, significant developments have occurred across the criminal justice field which have attempted to reframe and reorganise responses to criminality to take account of

the limitations of state interventions. This has involved 'defining deviance down' to divert offences away from the formal criminal justice system and a shift away from the rehabilitative ideal to one counting 'outputs' rather than 'outcomes'. Influenced by neo-liberal managerialism, the new objectives are to 'manage' risky populations through actuarial tools rather than seeking to eradicate criminality (Feeley and Simon 1992; 1994). In this sense, performance measurement has become more important, centred more on how efficient 'services' are for 'clients' than how effective they are in reducing crime; with discourses, practices and provision of security imported and supplied through the private sector (Jones 2012; Shearing and Stenning 1981). In addition, the state also attempted to 'adapt' to the changing landscape through becoming more professional and bureaucratised. The use of technology has facilitated smarter ways of targeting criminal activity, to identify 'hot spots', whilst also providing more powerful tools for data analysis and identification of criminal activity.

Importantly, a subtle shift of official conceptualisation has ensued, moving away from positivism and drawing more upon the 'criminologies of everyday life' which treat crime as a normal social fact in society. The logic is that if crime is not considered an exceptional phenomenon caused by external or pathological conditions, then measures should focus on neo-classical notions of cost-benefit analysis which minimise opportunities and maximise the chances of being caught.

But there have also been important shifts away from centralised state-centred responses to crime and drugs. A weakening of the nation state has led to recognition that crime control requires partnership working. Thus, we have witnessed a growing diversification in crime control above, below, beyond and within the state, whereby a plethora of social actors are responsibilised in the governance of security (Jones 2012; Hughes 2007; Crawford 2012). Such developments indicate a 'temporal shift' towards a 'pre-crime' society where there is '...calculation, risk and uncertainty, surveillance, precaution, prudentialism, moral hazard, prevention and, arching over all these, there is the pursuit of security' (Zedner 2007:262).

Non-Adaptive Strategies: Denial and Acting Out

But whilst attempts have been made to deflect attention away from traditional state responsibilities of providing security for its citizens in the face of inevitable failure and scrutiny, Garland also suggests that there has been a simultaneous renewal of the 'myth' of

sovereign control. The need to be seen as though the ruling government can provide the fundamental necessity of safety has allowed a darker and more punitive side of crime control to flourish. This has been driven by increased media coverage and interest (enhanced by technological changes such as the 'digital revolution'), a more fearful and demanding public encountering the 'reality' of control deficits, and a combination of shifts in political philosophy and social demography whereby neo-conservative conceptions of morality and law and order have come to the fore against the backdrop of perceived 'softness' under earlier left-wing administrations.

The politicisation of crime has led to a questioning of liberal elite dominance in policy-making (Loader 2006; Ryan 2003) and split the post-war political consensus on crime issues. There is now an influx of varying positions on how best to respond to crime, varying from commonsensical understandings to 'scientific' analyses (Garland and Sparks 2000). In the place of the rehabilitative ideal and quest for offender reintegration has come a more expressive and emotional tone on crime policy. Retributive punishment has come to dominate discussions with 'just deserts' being a generalised policy goal. Incarceration has become the preferred mode of punishment and has seen significant increases in both the extent of custodial sentencing and in the average length of sentences given¹ (Liebling and Crewe 2012).

In reaction to the perceived failures of the penal-welfare state, political parties are dependent on strong policies which claim to be able to save the nation from the perpetual crises created by a 'moral underclass'. A pertinent aspect of this is that policy tone on crime has changed to a central discourse centred on fear of crime and insecurities about the 'dangerous other', and in this crime-ridden society victims are now prioritised and feed into the policy-making process. As Wacquant (2001) demonstrates, such perceptions are innately linked to issues of social class and ethnicity, with disadvantaged individuals becoming 'suitable enemies' who are further demonised, managed and controlled (Wacquant 1999; 2004; Christie 1986).

1.3 Beyond the Culture of Control

The arguments put forth in *The Culture of Control* marked an important contribution to criminology and wider social science disciplines and sparked a series academic debates around Garland's work. There is not space here to fully cover the range of critiques posited

¹ Indicative of this, the prison population has more than doubled since 1992 to over 85,000 in England & Wales at the time of writing (Howard League for Penal Reform 2014).

(see Hudson 2004; Gelsthorpe 2004; Matravers and Maruna 2004), but I shall concentrate on three key interlinked agitations relevant to this research project. Notably, methodological weaknesses in comparative design and the downplaying of national differences; the understating of conflict and resistance; and of being overly pessimistic and deterministic in outlook.

The Culture of Control is explicitly focussed on trajectories of crime control in the UK and USA. One of the most significant challenges made is that Garland employs a methodologically weak comparative design which glosses over points of divergence to concentrate on elements of similarity between these two national jurisdictions. As such, '...the search for commonality tends to blot out basic structural qualities' (Young 2002:232). Most prominently, commentators have pointed to significant historical and cultural components of the USA such as race relations, the 'American Dream', protestant fundamentalism, constitutional structure, high levels of gun ownership, and levels of inequality (Western 2004; Tonry 2009; Young 2002).

It is such facets which arguably make the USA 'exceptional' in crime control, indicated, for example, by their vastly higher incarceration rate. By focusing on the similarities between the UK and USA, there is a danger that *The Culture of Control* fails to comprehend how distinct structural and cultural systems in each jurisdiction contribute towards movements in crime control. This problem is then furthered through an assumed extrapolation of the explanation to cover all late-modern societies, further masking the messy contingencies of responses across different states, leading to 'false universalism' (Edwards et al. 2013a).

Relatedly, a further critique posited against *The Culture of Control* is that Garland understates conflict and resistance in shaping policy development. In a fundamental way, this strikes at the heart of Garland's genealogy method, as commentators suggest that Garland presents an all too tidy account of the rise of neo-liberal and neo-conservative agendas. Matthews (2002:219) argues that Garland does not grapple with processes of '...struggle and conflict involving changing modalities of power, truth and subjectification', and as such the culture of control becomes a 'quasi-teleology'. Jock Young (2002:234) builds upon this by suggesting that critical narratives, including those of the feminist movement (see Gelsthorpe 2004), were restricted in importance, with '...the emergence of critical criminology in the 1970s written up almost as an anomaly [sic]'.

The neglect of resistance also goes deeper than with individuals and groups lying outside of officialdom, but it also relates to the power struggles over ownership and conceptualisation of problems by policy actors operating across different institutional

settings and at different levels of governance. In these settings, with the empowered ability to shape crime control in varying degrees, there is scope for negotiation, resistance, and reworking of policy (Edwards and Hughes 2005; Stenson and Edwards 2004; Muncie 2005). Whilst Garland (2001:22) does note differences between different aspects of policy, warning researchers to 'not mistake talk for action', there is admittedly absent specificity on the dynamics of how policy develops and unfolds, with Garland brushing aside the 'empirical particulars' (ibid:vii).

These criticisms then link to a final critique of relevance here, that *The Culture of Control* is a 'grimly pessimistic' and 'determinedly dystopic' 'criminology of catastrophe' (Zedner 2002; O'Malley 2000; Loader and Sparks 2004; Hutchinson 2006). By concentrating on the similarities of two late-modern societies, there is an assumption that a culture of control is determinedly imposed by virtue of structural economic, political and social shifts. The consequence is not only that '...little room is left for the impact of contestation and resistance' (O'Malley 2000:162), but that it leads to a type of thinking whereby '...processes of social control appear to have a logic of their own which leads ineluctably towards an ever more restrictive system of regulation' (Matthews 2002:220).

In sum, critiques of Garland amounted to fears that the culture of control was viewed as a 'bleak' homogenous phenomenon, present across all late-modern societies, and seemingly irreversible. However, in response to such criticisms, Garland (2004) revised his initial analysis and opened up a path for future research inquiries which this project attempted to take forward.

First, Garland dismisses accusations of a deterministically dystopian outlook by reiterating the complex nature of the field, as a whole, under study. Thus, whilst critical commentators have tended to focus on the 'punitive turn', Garland (ibid:170) argues that such a perspective ought to '...reflect on the non-punitive modes of managing crime that these deep transformations make possible'.

Second, there is an acknowledgement of the under-emphasis of 'counter-doxic struggles' which tended to '...misrepresent the real nature of the field, which is composed not of fully settled practices and firmly established policies but rather of competing actors and ongoing struggles, often with delicately balanced forces and power ratios whose equilibria are subject to change' (ibid:167-168). As such, through greater attention paid to such dynamics, it would be possible to not only develop a more realistic representation of the current state of crime control, but that it would provide '...a more adequate basis for thinking about future possibilities' (ibid:168).

Finally, Garland disputes the idea that *The Culture of Control* was a comparative study in a methodological sense, which would have paid more attention to points of divergence if so. Rather, Garland examined the overall developments in crime control in the USA and UK because *despite* marked differences between the two countries, there was the presence of similar pressures and types of responses. For Garland then, this is not a closing off of inquiry under a generalised deterministic explanation, but the construction of a springboard from which a series of further empirical studies could critically examine how other countries and geo-political spaces have ‘...adapted and reacted to the new risks, insecurities and opportunities inherent in the social organisation of everyday life under late modern conditions’ (ibid:179-180).

Thus, in utilising and advancing the valuable contributions of *The Culture of Control*, it is necessary to consider its limitations. Principally, that whilst there may indeed have been some convergence in crime control strategies in societies transitioning to late-modernity, there exists the potential for the culture of control to take a number of guises; to be contested, resisted and reworked across and within particular contexts by a myriad of actors and agencies. In order to better understand these dynamics, this requires malleability of the criminological gaze, to move beyond a narrow criminal justice focus on policy outcomes to consider the political processes which generate policy responses (Jones and Newburn 2007).

Thus, this research project sought to clarify and build upon how control cultures unfold across two different advanced European societies, at national and subnational levels, through an empirical examination of the policy-making process in a specific policy domain: cannabis control.

1.4 The Challenge of Cannabis Control

The sphere of cannabis control provides an interesting focus of inquiry precisely because it lies within a grey area of societal moral tolerance. Cannabis is perhaps the most contentious of all illicit drugs by virtue of the contestation of its dangerousness, and by the volume of its consumption globally. For some, the ‘gateway theory’ (Kandel 1975) still holds significant weight and it is adjudged as intrinsically harmful to those who use it (see the International Narcotics Control Board, TNI 2014). For others, it is seen as relatively harmless, with most harms emanating from a morally dubious suppression and oppression of users who become objects of criminal control and societal marginalisation (e.g. Becker 1963; Young 1971).

Regardless of standpoint on the harm of cannabis, in recent years it has become clear that alongside other social transformations, cannabis activities have undergone changes

which have brought it firmly into the public and political sphere. Most notably, from the 1960s the numbers of those who had used cannabis increased significantly, amounting for some a 'normalisation' of the drug particularly for youth (Parker et al. 1998). Moreover, long-standing arguments regarding mental health have been reinvigorated by a wave of studies driven primarily from psychiatry, and new challenges have surfaced such as large-scale domestic cultivation and supply.

In the context of a culture of control, it would appear that patterns regarding cannabis and other illicit drugs demonstrate policy ambivalence. On the one hand, there is evidence of a reactive and morally driven so-called 'war on drugs' which fuels a spiralling recourse to punitive criminal justice-led responses (Wacquant 2004); and on the other hand, we have witnessed the growth of a preventative 'harm-reduction' agenda which implicitly accepts the 'normality' of drug use and seeks to 'adapt' through the introduction of measures which better manage and control the problems created by drug use (O'Malley 2004).

But whilst these broader trends may indicate and confirm the relevance of the culture of control, the discussion earlier alerts us to the need to take a closer empirical examination of the political processes and factors which facilitate or resist how it unfolds across different geo-political spaces. This is particularly pertinent given the 'silence' of *The Culture of Control* in explicitly discussing drugs policy beyond a handful of references to the 'war on drugs' (O'Malley 2002). O'Malley (ibid) is on point here, arguing that such an important omission requires analysis beyond the UK and US. Certainly, despite overarching frameworks of prohibition which of themselves indicate a punitive approach towards cannabis, there are still varying responses across different jurisdictions.

For example, it is clear that the style and nature of the 'war on drugs' apparent in the US, which has contributed towards mass incarceration of users and dealers from 'ghetto' neighbourhoods (Wacquant 2004), has not been experienced in the same way in other jurisdictions. Even within England & Wales, the number of custodial sentences for cannabis possession offences remains relatively minuscule, with a mere 308 given immediate custody in 2009 (Sentencing Council 2011). More startling in this wider context though, is the continued existence of tolerated 'coffeeshops' in the Netherlands which openly sell cannabis to consumers.

This is not to refute the existence of punitive tendencies, which as will be argued are present in both of these jurisdictions, but that there is a need to examine the drivers, struggles and adaptations relating to policy development which have contributed towards convergence and divergence in the trajectories of cannabis control.

1.5 Framing the Research

This research study attempted to provide a layered understanding of the cannabis policy process through a multiple-embedded case study design which examined both national and subnational levels in England & Wales and the Netherlands. Thus, there is not only a focus on two national contexts, but the research also delved down into one case site in each national context (Cardiff and Utrecht) to capture the dynamic and contested spaces of how cannabis policy was constructed and translated.

To provide a point for comparison, two recent policy ‘movements’ were selected: the 2009 reclassification of cannabis from Class C to Class B in England & Wales; and the changes to the coffeeshop *gedoogbeleid* (‘tolerance policy’) that occurred in 2012/13 in the Netherlands. It is important to stress that an analysis of these changes is not intended to typify everything about cannabis control in the two jurisdictions, but rather to exemplify and illuminate the uncertainties and contingencies around policy-making in this area. This is not to disregard the broader trajectories and context of cannabis control, as the particular ‘cases’ under examination are placed within a broader context of cannabis regulation over a longer period in Chapter 3. However, as an *empirical* study of policy-making, there was a need to have a relatively narrow focus to allow for a more rigorous explanation of how and why particular things happened at a particular time. To have a broader empirical focus to cover all aspects of cannabis control over a longer period of time would have reduced the methodological rigour of an inter- and intra-national comparison.

Prima facie, the recent changes seem to indicate a more repressive shift in both jurisdictions, but to assume the validation of punitive tendencies on face value obfuscates a more complex picture. Taking into consideration the notion that ‘policy’ is not a singular concept but can be distinguished at different ‘levels’ of ‘talk’, ‘decisions’, and ‘action’ (Brunsson 1989; Pollitt 2001), the research primarily examined the policy ‘process’ (i.e. the genesis of changes) at the levels of talk and decisions.

This is not to underplay the significance of policy at the level of ‘action’ or implementation, but that the research was centred on how shifts in policy come into being and are negotiated across different spaces. Given Garland’s effective dismissal of nuanced policy differences, there was a need to provide an empirical representation of policy making in particular contexts. Set within a comparative design, this inevitably required a focus on the ‘higher’ levels of policy (i.e. talk and decisions) but the analysis remains consistent, and contributes towards, critique of Garland’s original approach. If it is possible to find and explain important points of convergence and divergence at these levels, it is safe to assume

that such patterns exist, perhaps in even more greater contrasts, at the level of ‘action’ on the ground. These concepts form an important component of the analytical frameworks used and will be discussed further in Chapter 4.

The research set out to address four central research questions which aimed to illuminate the complex and diverse nature of how a culture of control unfolds:

1. How did the policy responses come into existence?
2. To what extent is there *intra*-national divergence between national and subnational levels of governance?
3. To what extent is there *inter*-national convergence in the responses to cannabis?
4. What factors and mechanisms conditioned how the policy responses unfolded?

This set of concerns parallels the call of the European Society of Criminology who argued in 2013 that moving beyond some of the supposedly dystopic implications of grand theories, or ‘sparkling funeral oratories’, entails the identification of ‘...what factors influence the trends in crime control and actual policy-making mechanisms in various countries’ (ESC 2013:3). To this end, there are a number of original contributions of this research:

- The nature of the policy responses in both countries demonstrate ‘structured ambivalence’ (Garland 2001:111) which creates, in Brunsson’s (1989) terms, ‘hypocrisy’ both between policy talk and decisions, and between national and subnational spheres of governance. The need for politicians to be seen to be acting on a problem is in tension with the likely administrative and negative burdens of applying punitive responses. Such relations suggest that punitive tendencies rest dominantly in the construction of policy problems and the desires for change, but become less meaningful in the actual concrete manifestations of policy, especially at the subnational level.
- More central to the thesis though is the assertion that there are a set of structural and cultural mechanisms existing at national and subnational levels which either facilitate or ‘mellow out’ punitive aspects of policy. These included, *inter alia*, ownership of the issue at a national level; relations of

power between central and local authorities; political and constitutional culture; the role of expertise and the 'national mood'; and political representation and individual political figures at distinct moments.

- Consequently, the thesis provides a rich insight into the messy and dynamic processes by which cannabis policy is generated and negotiated which has contributed to varying degrees of convergence and divergence across England & Wales and the Netherlands. The novel comparative approach used, being both international and intra-national, has allowed for an adaptation and progression of *The Culture of Control*. These findings can then be utilised to further test and corroborate the identified factors mitigating the policy process in other areas of crime control and across different settings. Such endeavours are thereby better placed to explore how else problems of cannabis, drugs, crime and security could be governed, to work towards a more just and humane approach.

1.6 Outline of the Thesis

Before going on to outline the structure of the thesis, it is worth briefly reflecting upon the significance of how the thesis was written and is presented. Although the position adopted in this research strived for a 'best approximation' of the truth (Layder 1998:142), it is also accepted that it in itself can be considered as socially constructed and mediated through particular rhetorical techniques. The implication then is that this has a performative function in constituting a social reality; one which does not claim to be infallible, but is open to revision and change. Nevertheless, the thesis employs a loose 'empiricist repertoire' which presents the research process as neat, tidy and following a logical progression (Gilbert and Mulkay 1984; Burchell 2007). The consequence of doing so is that it disguises the 'mess' inherent in the research process (Law 2004). The purpose is not to intentionally hide the messy realities or to deceive the reader, but to provide a clear and rational set of arguments which accord with the 'formative intentions' of being a criminologist *as* social scientist (Edwards and Sheptycki 2009). Thus, overall the structure sets out the research 'problem', the way in which the research was designed, how the problem was answered, and the implications produced forthwith for conceptualisations of the social world.

Chapter 2 provides an overview of the socio-political context in England & Wales and the Netherlands. The main features of constitutional and political institutions are mapped on to the changing political landscape to understand the nature and extent of convergence or divergence in this realm which provides a useful backdrop for the subsequent analysis of policy change.

Chapter 3 builds upon this contextual overview through a brief exploration of international governance frameworks before turning to an in-depth examination of developments in cannabis control in each jurisdiction through the lens of a culture of control.

Chapter 4 discusses the methodological approach employed in the research. The chapter outlines the research aims, objectives and questions before discussing the analytic frameworks of Kingdon's (1995) 'Multiple Streams' model and Pollitt's (2001) policy 'levels' which were used to frame and organise the empirical findings. From there, the research strategy is discussed as well as issues pertaining to the comparative and case study elements of the research. Following this, the specific techniques of data generation and analysis that were utilised are reflected upon before ending with a consideration of the ethical and political dimensions of conducting research in this area.

Chapters 5 and 6 present the substantive empirical findings of the thesis, with each chapter based around the national and subnational spheres of England & Wales and the Netherlands respectively. The chapters initially outline the policy changes under examination before giving an account of the policy process. This main facet of the chapters is organised around Kingdon's model of the 'problem', 'policy', and 'political' streams, interlacing and comparing the national level with the subnational level at each distinct stream. The aim of these chapters is to address three of the research questions: of how the policy changes came into being; the preliminary identification of factors and mechanisms which conditioned the policy responses; and the examination of convergence and divergence between national and subnational levels of governance.

Chapter 7 then provides a cross-case analysis of the two jurisdictions, taking into account the nature of national-to-subnational relations, to grapple with the final research question of interest: to critically assess the nature and extent of convergence and divergence. In this way, the mechanisms identified in chapters 5 and 6 are compared and contrasted across the two

jurisdictions as a whole, critically relating the findings of the thesis back to the propositions of the culture of control thesis.

Chapter 8 concludes the thesis through a recapitulation of the main findings in relation to the original research questions, demonstrating how, and identifying why, responses to cannabis have unfolded across variegated and uneven landscapes. The chapter then goes on to reflect on the methodological approach of the research, highlighting aspects which could be improved and further areas for empirical examination. The thesis then concludes through a reflexive discussion of the normative dimension of criminological research, highlighting a set of policy implications.

Chapter II

The Socio-Political Context in England & Wales and the Netherlands

2.1 Introduction

The primary aim of this chapter is to set out the broad institutional and cultural context within which policy is made in order to provide a richer understanding of developments within the area of cannabis policy (which is discussed in Chapter 3). This is provided through a historical overview and backdrop of the major patterns and developments that have occurred within the socio-political sphere in England & Wales and the Netherlands over the past century.

2.2 England & Wales

The political architecture of England & Wales² is structured around a ‘first-past-the-post’ and adversarial system which has witnessed the growth and dominance of two main political parties split traditionally along the cleavage of social class. The socio-political sphere has been one in which a large, centralised ‘welfare state’ developed in the late 19th and early 20th centuries, with local authorities waning in their powers to shape political mandates. Since around the 1970s, the welfare state has broadly diminished, and in its wake, responsibilisation of the individual and a marketisation philosophy has become far more dominant. Moreover, this has taken shape within a much greater politicised and volatile environment.

2.2.1 Political Characteristics of the United Kingdom and the Growth of the ‘Welfare State’

The development of political institutions in the United Kingdom followed a gradual transition from monarchic to parliamentary and democratic rule during the 19th and early 20th century. The appearance of political parties were largely organised around the main cleavage of social class, and by the end of the First World War, two main parties emerged as the dominant

² Hereafter the ‘United Kingdom’ is used for the purposes of this section.

forces of British politics – the Conservatives and the Labour Party – who broadly represented the interests of employers and employees respectively³.

With the growth of mass political party membership following male (and limited female) enfranchisement at the end of the First World War (with universal suffrage achieved in 1928), these two parties have since dominated the political landscape. British political culture has developed around such developments, and has also been shaped by a set of institutional practices which have become collectively known as the ‘Westminster system’. In this model, a first-past-the-post system of elected representation takes place which (usually) results in one political party holding office with the other forming the main ‘opposition’.

Politics in the United Kingdom has thus been characterized by an adversarial and competitive system between two main political parties. Within this framework, the Prime Minister has a pivotal role in the directing and management of the executive branch of government, to co-ordinate policy across the different departments and act as a spearhead of the government. Pertinently, these features led to Lord Hailsham describing the UK system as producing an ‘elective dictatorship’, which grants considerable power to the dominant party and Prime Minister in government.

A striking characteristic about the British constitution as a whole is that it is largely ‘uncodified’, meaning that there is a lack of a singular formal doctrine which determines political culture and behaviour. Political behaviour both at national and local levels ‘...depends heavily on constitutional understandings’ (Moran 2005:71), which has allowed for differing and shifting interpretations over the years. Two striking characteristics often attributed to the British constitution are parliamentary supremacy and the rule of law (Bogdanor 1999).

Such characteristics have also shaped relations between central and local governments, whereby parliamentary supremacy has led to a ‘culture of disdain’ towards the local sphere (Cole and John 2001). Up until the Second World War local authorities had significant and genuine responsibilities in providing major services. Nevertheless, the ‘golden age’ of local government declined following the war which saw the centralisation and nationalisation of key services emanating from a broad political consensus centred on the importance of the ‘welfare state’ (Wilson and Game 2011).

Despite intrinsic class differences between the two main political parties, the Second World War had left Great Britain in a state of disrepair which individuals from all backgrounds

³ Of course the particular ideologies of these two parties are vastly more complex than presented here. For Conservative ideology, the ideas of Edmund Burke and Friedrich von Hayek have been historically influential; whilst Labour ideology was shaped by individuals such as Sidney Webb, R.H. Tawney and George Orwell (see Moran 2005).

recognised the need to be socially responsible for all individuals regardless of status. One of the aspects of 'public acceptance' was the growing role of the state in public life (Thomson 1965). Following the 1945 election of the Labour Party to office, there was a programme of state interventions which saw the nationalisation of key industries such as the Bank of England in 1946, coal and railways in 1947, electricity and gas in 1948, and steel in 1951 (Pugh 1994).

Another key facet to this period was the development of welfare provisions for the sick, elderly, unemployed, injured and those with housing and education needs. By around the time of the Second World War the concept of welfare changed from one based upon provisions made to those unable to care for themselves, to one based upon the principle of '...unified universal contributory insurance to ensure at all times to all men a subsistence income for themselves and their families as of right ...without any form of means test or inquiry about what means they had' (House of Lords 1953). One of the most influential moments which solidified the welfare state was the publishing of the Beveridge Report in 1942 which proposed the introduction of insurance to provide universal protection against unemployment, poverty and illness (Moran 2005).

Added to this milieu of social interventions was a growing economy which reaped the rewards of the post-war economic boom and improved living conditions. As a result, this period enjoyed high employment, stable social conditions, and a broad political consensus shared between the two dominant parties which centred on the notion that the state had a significant role in providing universal welfare to its citizens (Thomson 1965).

Combined with the characteristics of democratic governance outlined earlier, this contributed towards a political culture which has been described as a 'deferential civic culture'. As Almond and Verba (1989:30) argued in relation to British politics in the latter half of the 20th century:

'...the civic culture is an allegiant participant culture. Individuals are not only oriented to political input, they also are oriented positively to the input structures and the input process.'

Moreover, British political culture was further characterised as deferential, in the sense that whilst a balance is struck between active and passive roles of citizens, it is slightly weighted towards the subjective role. This feature again speaks to the constitutional characteristics of the United Kingdom, that parliament is supreme in ensuring the liberty of its citizens (or 'subjects') through the rule of law (Aughey 2001). It was in this climate that the policy process was more heavily aligned with experts, civil servants and elected representatives, with the public having little direct influence on policy decisions.

2.2.2 Rise of the Political Right

From around the 1960s onwards, social, economic and political conditions started to shift with vast changes in societal organisation which have become tied to processes of 'globalisation' and a shift away from modernity. These developments are explored in far more depth elsewhere (see Beck 2000; Giddens 1998; Bauman 1998; Garland 2001; Castells 2001; Friedman 1986; Simmel 1964), but include: changes to family life and identity through organised civil disobedience, greater 'democratisation' and empowerment of oppressed groups; shifts in work patterns and organisation; technological developments which have facilitated instantaneous communications and representations of the social world; the uprooting of traditional communities and the rise of the urban 'metropolis'; mass migration; and particularly in the late 1960s, a rejection of 'traditional' norms and values, with accelerated secularisation.

In the 1970s the welfare state began to be questioned which coincided with a major restructuring of the labour market following the decline of traditional industrial manufacturers and an economic recession. From this point, work became a lot more insecure and was splintered mainly between highly trained professionals and those who were largely unskilled. At the time, the social changes of the 1960s were seen as indices of progress and development; as steps towards a more socially democratic utopia. The economic recession of the 1970s triggered the collapse of the post-war political consensus as the Conservatives' vision of how best to counter the economic troubles was explicitly anti-welfarist, focussed on a backlash against 'big government' and the 'permissive culture' of the 1960s (Garland 2001; Newburn 1991). By the end of the 1970s, British politics had shifted from one based predominantly on welfarism, to one increasingly influenced by the realm of neo-liberalism⁴ with the election of Margaret Thatcher to prime minister in 1979.

The impact of this was that it signified a complete reversal of what came before, in that the state withdrew responsibility for market regulation whilst also advocating strong moral tones on perceived idyllic norms and values of the past. As Garland (2001:100, emphasis in original) notes, '...[i]f the watchwords of post-war social democracy had been *economic control and social liberation*, the new politics of the 1980s put in place a quite different framework of *economic freedom and social control*'.

⁴ Harvey (2005:2) defines neo-liberalism as '...a theory of political economic practices that human well-being can best be advanced by liberating individual entrepreneurial freedoms and skills within an institutional framework characterized by strong private property rights, free markets, and free trade'.

Margaret Thatcher ‘...did not have much time for local councils, which she expected to be the agents of central government’ (Baker 1993:111, in Wilson and Game 2011), and again attempted to assert parliamentary supremacy in the face of a weakened Europeanised state. In the latter sense, the government privatised national industries and services to compete in the emerging European marketplace whilst simultaneously curbing down on costly welfare provisions. But Garland is quick to note that the political changes from the 1970s onwards were not as far-reaching and retracting as they claimed to be. Thus, ‘...in reality its assault upon late modernity took a very particularized form and left the major social arrangements largely untouched’ (Garland 2001:100).

2.2.3 The Reinvention of the Political Left

Although social institutions may have retained their institutional architecture, the socio-political environment in which they now resided had shifted considerably. With the Conservatives in power from 1979 to 1997, the need for the Labour Party to reformulate itself and adapt to the contemporary landscape led to a rebranding of the party under the leadership of Tony Blair. This highlights a crucial element of the political dimensions in the United Kingdom, that in a majoritarian two party system, the success of one party creates an impetus for the other party to react to regain political support.

With the crippling decline of trade union power and membership that occurred during the 1980s, and a broad public shift towards more neoliberal and conservative values concerning welfare and public policy, the Labour Party reacted by becoming less left-wing on many issues, from economic policy to social policy (and as we will later see, also on crime policy). The watchword of ‘New Labour’ was the quest to find a ‘Third Way’, between the success of the New Right and traditional allegiance to the Old Left (Giddens 1998).

This opened up and allowed self-critique of ‘Old Labour’ which was adjudged to have ‘...marginalised individual empowerment and local control’ through a commitment to a centralised state as a means of emancipation (Hain 1999). Moreover, this approach was critiqued on the basis that it was seen to overly promote individual freedom to the detriment of collective responsibility. The New Labour project attempted to reconstruct a new ‘governmentality’ which responsibilised citizens and communities in the construction of identity and values which aimed to reinvigorate the moral civic duty of citizens (Rose 2000).

As part of this shift, New Labour adopted and advanced a neoliberal-inspired agenda of ‘modernising government’ which attempted to increase government efficiency and effectiveness through managerialist reforms (Cabinet Office 1999). A dual process became

evident, with increasing powers given to local authorities, multi-agency partnerships and private entities, alongside a simultaneous renewal of centralised control through national performance management targets. This relationship, whilst premised on ideals of local governance and democratic frameworks, seemingly further confirmed the role of local authorities as service delivery organisations within a 'hyper-centralised' model of control (Chandler 2001).

At the same time of depolarisation with a shift of the political left towards the centre, the political sphere purportedly became more politicised and competitive. The advent of mass communications and media, and later the 'digital revolution', brought with it a series of strains and pressures upon politicians through elevating social issues more firmly into the public domain which were once the remit of professionals and experts. As a result, there appeared to be an ambivalent mix of strategies within New Labour, balanced between pragmatism and populism (Powell 2000). On the one hand, there were desires to 'woo' the electorate and demonstrate the departure from outdated Old Labour philosophies on issues such as welfare and crime. As Lister (2001:429) notes, the influence of conservative ideology led to '...a reading of public opinion as conservative and reactionary, which needs to be pandered to rather than challenged'. But on the other hand, pragmatic strategies of 'what works' were employed in policy development which chimed with the new economic reasoning and managerialist agenda that had come to the fore in the 1980s Conservative governments. The consequence was that there appeared to be a tension generated between expertise in guiding policy decisions, and the need to 'woo' the public through populist policies.

2.2.4 The 'United' Kingdom and Welsh Devolution

Alongside reforms which saw a firmer centralised grasp on public policy, the reinvention of the Labour Party simultaneously attempted to emphasise 'decentralisation, democracy and popular sovereignty' (Hain 1999). In some senses, this appeared to mark a shift away from the constitutional value of Westminster parliamentary supremacy. New Labour instigated a programme of devolution, under the guise of embedding socialist democratic values in the active citizen at the local level (ibid).

Power sharing amongst the United Kingdom's constitutive polities stretches back much further than the reforms made under New Labour. For example, Scotland retained a quasi-separate legal system throughout the period following the Union in 1707. In Ireland, the Parliament of Northern Ireland was established under the Government of Ireland Act

1920, and it sat between 1921 and 1972. However, in both these polities further genuine powers were not made under devolution settlements until the Good Friday Agreement and Scottish referendum held during New Labour's initial term, in which both Northern Ireland and Scotland established an Assembly and Parliament respectively.

Although developments in Ireland and Scotland are equally worthy of attention, given the focus of the research on England & Wales, selected due to reasons of depth and also following the research designs of previous comparative studies (e.g. Downes 1988), our attention shall primarily concentrate on devolution in Wales. The dominant political philosophy running through Wales is one which has favoured social democratic principles, with historic support for the Labour Party (Drakeford and Gregory 2011). In part, this can be related to the industrial heritage of the country, which shares features similar to that of regions in the north of England and of Scotland, but can also be traced to a sense of 'internal political solidarity' embodied in the Welsh language and traditions (Osmond 2007).

The degree of willingness to become autonomous has historically been markedly lower than that in Ireland and Scotland, and the willingness of Westminster to cater for Welsh needs has lagged behind these other countries. For example, the Welsh Office only came into being in 1964, which has been attributed to a lack of tradition in a particular Welsh administrative unit (and referring back to the constitutional characteristic of parliamentary supremacy) (Deacon and Sandry 2007). However, the momentum for devolution increased from the late 1980s with disillusionment setting in with the Conservative governments which had deindustrialised the coal industry in the south-east of Wales. A feeling grew that the London-centric Westminster system was not adequately recognising the needs of the Welsh populace, and this became coupled with the changed position of the Labour Party within Westminster (Chaney et al. 2001).

The culmination of both domestic Welsh pressure, and the somewhat opening up of centralised control under New Labour, led to a narrow but successful referendum in which the Welsh Assembly was established under the Government of Wales Act 1998 (Tomaney 2000). The result of which was the transferral of *some* powers to Wales⁵, but these co-existed within a complex legislative arrangement whereby Westminster still had the possibility of legislating in them. Under the Sewel Convention it was agreed that Westminster would not normally legislate without consent from the Assembly (Trench 2008). Since this initial devolution package, further powers have steadily been granted to Wales – under the Government of Wales Act 2006 and a further devolution referendum of 2011 – which has created a distinct executive branch ('Welsh Government') separate from the legislature

⁵ Including education, health, local government, cultural matters, public transport and agriculture.

(Welsh Assembly) and allows for full law-making powers in twenty fields as proscribed in the 2006 Act⁶.

Whilst these developments have built upon previous powers, it should be noted that criminal justice remains a non-devolved issue which is important to bear in mind when examining the policy process in relation to illicit substances. Moreover, devolution has created an interesting dynamic in this specific field between the two governments, as other areas pertaining to 'substance misuse' (such as health and education) have been fully devolved. But whilst the trends appear to demonstrate power-sharing between Westminster and Cardiff (and Edinburgh and Belfast), the upper-hand still remains with central government which affirms Enoch Powell's maxim that 'power devolved is power retained'.

Nevertheless, the project of the Welsh Government has sought to carve its own 'Brand Wales' in the areas it does have control over, and this marks a significant point of departure from previous relations of governance, with opportunities to generate more tailored policy responses and resist unfavourable shifts at the broader UK level of policy-making.

2.3 The Netherlands

A key contrast of Dutch politics with that in England & Wales is that ruling governments are always comprised of at least two political parties in a coalition due to a system of proportional representation. Moreover, the local sphere has traditionally held an important position in Dutch governance, with municipalities granted significant powers. One of the major arguments that arises from this different political architecture is that the political culture has facilitated a traditionally more tolerant and compromise-based approach to governing. Despite such features, the overall picture suggests a shift from one based upon accommodation and consensus politics to one purportedly now based more upon adversarial and politicised modes of governance.

2.3.1 Political Characteristics of the Netherlands and the 'Politics of Accommodation'

⁶ Agriculture, fisheries, forestry and rural development; ancient monuments and historic buildings; culture; economic development; education and training; environment; fire and rescue services; food; health and health services; highways and transport; housing; local government; public administration; social welfare; sport and recreation; tourism; town and country planning; water and flood defence; welsh language.

Since its official formation in 1814 at the Congress of Vienna, the Netherlands (including both Holland and Belgium prior to 1839) was ruled under a monarchy, but important reforms occurred in 1848 which introduced a parliamentary democracy. Although such changes facilitated the opening up of the governance process beyond the ruling King, the democratic process was still very much limited to ruling elite liberals until the end of the 19th century.

In addition to the 1848 parliamentary reforms which were devised by the well-respected statesman, J.R. Thorbecke, he also engineered further Acts which established local governments in the shape of municipalities and provinces (Daalder 1955). This 'House of Thorbecke' framework granted considerable autonomy to these different layers of government, which although existing within a broader centralised unitary state, allow for local differentiation. The position of the local is an important and continuing characteristic of the Netherlands which is consistent with inter-related tendencies to refrain from over-centralised authoritarian control and instead to defer decision-making to the complex set of groups and layers existing in Dutch society.

The make-up of Dutch society in the 19th century was a set of distinctive groups or 'blocs' which were based primarily along religious and class lines (Catholic, Protestant, and secular). These 'blocs' were defined as '...a section of the population that bands together in a multiplicity, an integrated complex of organisations or institutions based on a common ideology' (Lijphart 1971, in Blom 2000:154). Due to fundamental conflicts between these different groups, there was a constant struggle to advocate policies which benefited each groups' interests. Lijphart (1968), who is one of the most authoritative authors on this subject, suggests that there were three main divisive issues between the different 'blocs' at the end of the 19th century. First, the issue of state and church with regards to education; second, the problem of franchising and the ability to vote; and finally, the rights of labour.

The result of these conflictual issues culminated in heavy tensions, and the resolution of these problems⁷ under the 'great pacification' by elite political bargaining by the main parties⁸ was made in 1917 (Andeweg and Irwin 2005). This marks an important departure from a majoritarian style of democracy which then ensured that governments would always be ruled through coalitions.

The result of this pacification was that it firmly established social 'pillars' (*zuilen*) which were headed by powerful elites. Up until the mid-1960s, most people lived their lives

⁷ According to Lijphart, the leaders of the different religious and political groups agreed to put aside ideological problems to work together to find a compromise. Commissions were set up with regards to the education and franchising issues, and their recommendations were accepted virtually without change.

⁸ The main parties organised around the 'blocs' were the KVP (Catholics), ARP (Protestants) (who later combined to become CDA), VVD (bourgeois liberals/conservative), and PvdA (socialists). See figure 2.1 in Appendix.

within one of the 3 (or 4) pillars of Roman Catholics, Orthodox Calvinists, and secular (which was sometimes divided according to class lines in bourgeois liberals/conservatives and socialists)⁹. For Lijphart (1968), 'pillarisation' was made possible due to the flourishing of a 'politics of accommodation' which was supported by three facets: first, the role of the elite leaders of the represented groups who made compromises and found realistic solutions; second, that all blocs were represented; and third, because proportionality was ingrained into the solutions of the settlement.

In order for this potentially conflictual relationship to work between groups, Lijphart (1968) highlights the 'rules of the game' which led to the 'politics of accommodation' being a success. First, there is a duty of *proportionality*, which allows all groups to be represented. This presents a clear contrast with the 'Westminster model' of the UK which is based upon power concentration rather than power-sharing (Lijphart 1999). Thus, a system of proportional representation and coalition rule requires parties to share power and work together, unlike in a majoritarian democracy which (usually) concentrates power in the single largest party. Moreover, the power and role of the Prime Minister in the Dutch setting is much more limited than that under a majoritarian regime, with ministers serving *with*, rather than *under*, the leader (Daalder 1955). This also accords with the fact that the Prime Minister could only come from one particular pillar and therefore not fairly represent the interests of all (Andeweg and Irwin 2005).

Following on from this, a further rule is *the agreement to disagree*, as political parties in a deeply divided society have to accept that they are based upon fundamental ideological differences and other groups have to be respected. Moreover, *depoliticization* allows the state to refrain from engaging in conflictual politics by relying on constitutional and legal principles. Andeweg (2008:255) suggests that '...political parties allow decisions to be taken by other actors than party politicians, and/or on other grounds than party programmes of ideologies'. This is aided by the constitutional statute which prevents cabinet ministers from being members of parliament, thus allowing a high proportion of policy specialists¹⁰.

Furthermore, *summit diplomacy* refers to the idea that serious problems have to be resolved at the elite level. Decisions would be made as a result of inter-elite bargaining between the leaders of each pillar. Again, these political features are supported by the political institution. Elite accommodation and summit diplomacy are made possible in a

⁹ Being part of one these vertical pillars meant that individuals would rarely come into contact with individuals from other blocs, and so from birth to death the path of an individual would largely depend on their belonging to a particular strand and thus live in a type of 'apartheid' (van Mierlo 1986, see Appendix, Figure 1.).

¹⁰ 72% had technical expertise when first appointed between 1946 and 1967 (Bakema and Secker 1988, in Andeweg 2008:263).

system which guarantees multiple-party rule, and the need to work together also encapsulated the role of expertise in informing judgements. This points to a further 'rule': *the business of politics*. This centres on the notion that Dutch politics is results-orientated and is prepared to make clinical decisions in a business-like manner. Thus, Andeweg (2008:255) argues that 'depoliticisation is a specific mechanism to deal with conflicts that do not lend themselves to resolution by compromise or proportional allocation of resources'. Expert committees were perhaps the *modus operandi* of the 'business of politics', which developed pragmatic and non-partisan ideas which could further stabilise coalitions.

Furthermore, *secrecy* aids in the overall process by shielding the compromising decisions made by elite leaders from publicity. This allowed the elites to make pragmatic decisions without external pressures. This is supported by a lengthy negotiation process which provides greater distance between what is decided as government policy and the preferences of voters, which serves to insulate the policy process from crude populism. Finally, *the government's right to govern* is the notion that those in power (in the cabinet) should be allowed to govern without harassment from others (such as those in parliament).

The political culture has importantly been shaped by structural arrangements which fostered the 'politics of accommodation' and somewhat insulated it from threats to the system, but political stability during this period has also been attributed to its historical roots. This not only refers to the 'polder model' and cultural and religious tolerance (see Buruma 2007; Luiten van Zanden 2010), but also to a 'regent mentality' (Daalder 1966). Prior to the Netherlands being officially formed, the central decisions of the Dutch Republic were made by the leaders of the different provinces and municipalities through the process of consensus-building and consultation of adherents (van Mierlo 1986; Bax 1990). The attention on local and regional levels of governance is also useful to understand how the politics of accommodation unfolded within the 'House of Thorbecke' model which granted considerable autonomy and power to these levels. As Blom (2000:159) notes:

'Administrators at [local and regional] levels would seem to have played an important role in conflict control, looking for compromises, damping down the inclination towards conflict and channelling it into moderate paths.'

However, Blom (2000:158) critiques Lijphart's account through deconstructing the notion of monolithic 'blocs', and suggests that 'entities' changed over time and space, with elite behaviour changing from one case to another.

But despite such criticisms, Lijphart's *The Politics of Accommodation* has come to be seen as the key study on early to mid-20th century Dutch political culture, which more or less

captured the essence of how the Netherlands was able to remain politically stable whilst deeply divided. The 'rules of the game' allowed elites to reach compromises on difficult issues, which led to a relatively peaceful political climate from 1917 until the late 1960s and importantly, facilitated the growth of a generous welfare state.

Initially, the Dutch welfare state was rather limited and consisted of a patchwork of uneven welfare programmes based within the different pillars. As Blom (2000:160) notes, '...many functions of the modern interventionist or welfare state came into being at local level or in the private sector rather than at national level'. But following the Second World War, the welfare state expanded substantially, taking inspiration from both the Beveridge Report and the van Rhijn Report, which suggested that 'society, organised in the state, is liable for the social security and protection against want of all its members, on the condition, that citizens themselves do all that can be reasonably expected in order to acquire such security and protection' (van Rhijn 1945, in van Oorschot 2006:59). As a result, the post-war period saw vast increases in public expenditure on pensions, widows and orphans, child benefits, medical insurance, and disability programmes, culminating in a process of collectivisation and solidarisation, further reinforcing the politics of accommodation (Andeweg and Irwin 2005; van Oorschot 2006).

2.3.2 The Collapse of the *Zuilen*

From around the late-1960s there began to be serious challenges to the pillarised structure in the Netherlands which can be related to a similar set of social forces experienced in England & Wales. It was during this period that Holland began to flourish economically, socially and culturally following post-war prosperity. Following the war, a 'baby-boom' created a new generation who were tired of the formal controls of the *zuilen*. Bryant (1981:61) suggests that '...in a climate of economic and cultural expansiveness, the traditional social controls of the *zuilen* were no longer tolerable'.

A key aspect of this was that the Netherlands underwent a process of secularisation which accelerated the urge for reform in the shape of voter mobility. As new political parties such as D'66, DS70, and PPR emerged, the pillar parties (and particularly the religious ones) lost their stranglehold on voters, which allowed a *doorbraak* ('breakthrough') of the pillar monopoly in government (Andeweg 2008; Pennings and Keman 2008). Thus, the loosening of traditional controls allowed a blurring between the religiously-based cleavages (Lijphart 1977; 1989). In a similar fashion to patterns elsewhere, Daalder (1987) argued that Dutch society was becoming more heterogeneous and as a result the 'rules of the game' were changing to

become more politicised, more open to public scrutiny and the relationship between the elites and the mass had become increasingly strained.

In addition to considering macro societal changes, van Schendelen (1978) and van Mierlo (1986) demonstrate that there is scope to believe that changing elite behaviour also contributed to the process of depillarisation in the sense that elite behaviour influences voting behaviour. Van Mierlo distinguishes four groups of changing elite behaviour: increasing coalition problems and instability; increasing problems in relations between top and middle elites; increasing party competition; and changes in policies pursued. Each of these issues both interacts with and shapes the social processes occurring around it.

The result of these changes, both macro and micro, has meant that Dutch politics has become a lot less predictable, with changes in social organisation and voting behaviour becoming much more complex and interwoven leading to a real lack of clarity between how 'us' and 'them' were defined (van Mierlo 1986). Broader social processes of secularisation, individualisation and democratisation all served to weaken the pillarised system in which political actors reacted to a changing landscape in which they sought survival. The result was the dismantling of the politics of accommodation, and a shift towards a more Anglo-American model of conflict and politicisation (Pennings and Kema 2008; Jones 2002).

Moreover, related to these changes in the political and social landscape was the retrenchment of the Dutch welfare system which had grown exponentially following the Second World War. This has been termed the 'Dutch disease', as the cost of welfare provisions was outstripping the capacity of the government to pay for them. Increased labour costs (due to high insurance premiums) placed strains on the Dutch to be able to compete with other countries, and the reliance on sales from natural gas supplies was a limited source of revenue to be able to finance expenditure. By the 1980s the burden of the welfare state was becoming clear and even worsening, with both unemployment and government borrowing increasing (Andeweg and Irwin 2005; van Oorschot 2006). These developments placed further pressure on a political system that was under attack on a number of fronts, further disintegrating the consensual and collectivist spirit of the politics of accommodation.

2.3.3 Post-Pillar Politics

The shift away from consensus towards a more adversarial form of politics is supported by empirical evidence. Political scientists have attempted to measure such trends through looking at several proxy indicators, such as the concentration of executive power vs. power sharing; inclusivity of coalitions; the politicisation of ministers (through proportion of

ministers with 'political experience'); and types of coalitions (see Andeweg 2008). All these measurements point towards a more politicised and less accommodating form of politics.

Although it is agreed that depillarisation has firmly taken place, the question of when the shift occurred is debated. Lijphart suggested that it started in 1967, whereas Daalder (1987) and van Praag (1993) noticed changes in the 'rules of the game' during the late 1960s to late 1970s with one of the main elements being a shift from depoliticisation to politicisation of party interactions (Pennings and Keman 2008). But in addition to this initial shift formed during depillarisation, most authors also agree that further changes occurred at the turn of the millennium.

Following the initiation of depillarisation, which created conflict in the context of declining religious and trade union affiliation, the confessional parties reacted by merging together under the Christian Democratic Appeal (CDA) in 1977, and through the fusion of confessional and secular trade unions into the FNV. Thus, it is argued that such a move prevented further destabilisation and provided some balance during the 1980s (Pennings and Keman 2008). This points to a further way in which the system adjusted; not only through political conflict but also with institutional consolidation (Jones 2002). For Jones (2002), the economic situation of the 1980s (following the oil crisis) forced a depolarising type of politics to return, due to the potential dangers with distributive conflict in an economic context of dependency on world markets, and between the mid-1980s and late-1990s CDA and PvdA elites depolarised substantially on social welfare (Adams et al. 2011).

In response to the 'Dutch disease' associated with the welfare state, neo-liberal philosophies came to the fore in governmental responses which attempted to reduce welfare spending and increase competitiveness in the global marketplace (Andeweg and Irwin 2005). But additionally, neoliberalism also presented itself in the responsabilisation of local municipalities. As previously mentioned, the position of the regional and local level has traditionally had a strong position in the Netherlands, but reforms from the 1980s onwards saw the adoption of an official policy to decentralise hitherto national tasks to local municipalities (ibid.). This need to adapt signalled and reaffirmed a key attribute of Dutch politics: 'the business of politics' which recognised the reliance of the Dutch economic system on trade and exports.

Thus, the 'myth' of the 'polder model' emerged during the mid-1990s as a way to reconstitute consensus politics in a positive way. For Jones (2002), this also served to solidify the legitimacy of Wim Kok as Prime Minister of two successive 'purple cabinets'¹¹ (1994-

¹¹ The 'purple coalition' consisted of the social democrats (PvdA), conservative liberals (VVD) and progressive democrats (D'66), and was the first coalition comprised of socialists and liberals. Another

2002). But the adaptation of traditional elites to the changing landscape during the 1980s and 1990s through the 'myth' of the polder model also served to open up polarisation of the party system on emerging and prominent issues which the traditional parties did not seem well equipped to deal with. Thus, 'the convergence of the two dominant parties... opened up the possibility for political entrepreneurs to gain traction by mobilizing new policy issues, such as immigration, in order to reap electoral gains' (Adams et al. 2011:104). Jones (2002) further notes that such patterns generated a dearth in political legitimacy, as emerging parties on both sides of the political spectrum sought to question and simplify the lengthy negotiation processes of consensus politics whilst also showing dissatisfaction towards a lack of clear choices. This was exemplified in the grey area of legal tolerance where there were accusations of governmental indifference in major disasters (Uitermark 2004; Pakes 2004).

So whilst the rise of the purple cabinets did signal a balancing out and return to consensus-building in the Netherlands during the 1990s, an important further shift then occurred at the turn of the millennium which further weakened the 'consensus-model' and drove it further towards an adversarial and politicised model of governing. As Pennings and Keman (2008) argue, a similar set of forces that punctured the politics of accommodation in the 1970s re-emerged in a heightened form at the end of the 1990s, which led to a questioning of all the major parties (not just confessional parties as had been the case earlier), which gave support to new parties. Whereas the attack on the political system in the 1970s was from the political left, the attack in the late-1990s came predominantly from the extreme right (Keman and Krouwel 2007), who were '...able to mobilize voters on issues that are linked to (the loss of) national identity and outside 'threats' like immigrants and the EU' (Pennings and Keman 2008:158).

In a growing political vacuum, new populist challengers arose which sought to challenge the political elite. As van Kessel (2011:69) argues, from the view of these populist parties, 'a new way of decision-making is required; one that is straightforward, transparent and effectively copes with the people's problems'. Of particular notoriety and (short-lived) success was that of Pim Fortuyn who emerged initially as part of 'Liveable Netherlands' (LN) in 2001 before breaking off to form his own party (LPF – List Pim Fortuyn).

Fortuyn positioned himself as anti-establishment and against what was the perceived threat of Islam and immigration towards Dutch social life. The growing success of Fortuyn was rooted in a section of White working class voters (particularly from Rotterdam) who had become disaffected with the political establishment and the perceived threats of

important note about this coalition is that it was the first time since the 1920s that the Christian Democrats (CDA) had been excluded from government.

immigration, and was further bolstered by Fortuyn's blistering attacks on the larger established parties in the run-up to the election.

These developments of course lay in tandem with tragic events of 9/11 in the USA, which only served to heighten tensions and the risk consciousness associated with Muslim ethnic minorities. But a further component also served to catalyse a highly toxic political arena, when Pim Fortuyn was assassinated by an environmental activist shortly before the elections.

Despite Fortuyn's assassination, LPF still successfully broke through into government following the May elections of 2002, by gaining 26 seats and becoming the second largest party (Irwin and van Holsteyn 2004). However, the turbulence experienced surrounding the 2002 elections continued into the following year which saw the collapse of the coalition between CDA, LPF and VVD in the Balkenende I cabinet due to the growing internal conflicts in LPF following the demise of their charismatic leader.

Despite the seemingly more politicised and polarised turn in Dutch politics, the return of the CDA during the 2000s signalled ambivalence in Dutch politics between reform and stability. On the one hand, dissatisfaction with the consensus model and unresponsiveness of established parties generated availability of the electorate towards credible reformative parties such as LPF (van Kessel 2011); but on the other hand, the re-emergence of the CDA as a historically stable and established party suggested that the electorate wanted stability. The re-emergence and influence of the CDA also had implications towards social and welfare policy, and demonstrated continuance from the 1980s of a shrinking welfare state (Green-Pedersen 2001). If at first retrenchment was based upon saving money, it was then further justified through a more moralistic framing. As van Oorschot (2006:60) summarise:

'The national and collective nature of the system is assumed to undermine feelings of responsibility and to promote calculative behaviour among all actors involved... Since the collective foots the bill, none of the actors has an incentive to limit the system's use.'

Although LPF was relatively short-lived, its effect on Dutch politics was substantial and longer lasting, with tensions particularly over European integration and immigration remaining at the forefront of political debate. The spiralling tensions over ethnic minorities were also bolstered by a further cataclysmic event in 2004, when film-maker Theo van Gogh was murdered by a Dutch-Moroccan Islamic activist (Aarts and van der Kolk 2007). In the space left by Fortuyn, a new extreme right-wing party emerged in the form of the PVV (Party for Freedom) which grew to become the third largest party (with 15.4% of the vote) in the 2010 elections. As a result, the party was reluctantly included in the Rutte I government in a

parliamentary support capacity to the main coalition partners of the CDA and VVD (Aarts and van der Kolk 2011).

Whilst much more could be said over the specificities of trends in Dutch politics, and indeed will be covered in later substantive analysis chapters (see Chapter 6 and 7), it suffices here to conclude the section and to draw out the main patterns that have occurred in the socio-political landscape of the Netherlands. Overall, it has been suggested that Dutch political culture during the early to mid-20th century was characterised by a 'politics of accommodation' (Lijphart 1968), whereby 'pillars' co-ordinated social and political life according to the main cleavages that existed in society. This system was shaped by constitutional and institutional configurations which allowed the consensus model to take shape. Importantly, characteristics such as proportional representation, coalition rule, and the separation of powers from the executive and legislature all supported the blossoming of the 'rules of the game', central to the success of 'consociational democracy' in pacifying, and tolerating, deep societal divisions. However, from around the late 1960s to 1970s a process of depillarisation took place due to a raft of social, economic and technological forces associated with a move towards globalisation and late-modernity.

The effect of these macro relations has shifted the 'rules of the game' in different periods, evidencing a 'pendulum consociationalism' (Pennings and Keman 2008, see Appendix, table 2.2), which has reflexively weakened, strengthened and then further weakened the consensus model over the past few decades. The result of internal politics in reacting to external events has for most commentators signalled a shift away from consensus-driven governance and towards a more conflictual and adversarial system, characterised by polarisation and politicisation. But whilst the 'rules of the game' may have indeed changed, it is imperative to note that formal institutions have changed very little over this period, which still have a self-preserving effect on the political establishment.

So whilst there may have been a weakening of 'historically shaped domestic structures', such structures still offer '...an institutional mechanism for mobilizing the consensus necessary to live with the costs of rapid economic change' (Katzenstein 1985:200). Moreover, whilst patterns in the social and political landscape seem to suggest increasing convergence towards politicisation and a retreat from the welfare state in favour of neoliberal and neoconservative ideologies concerning markets and morals, there still remains a gap between the Netherlands and England & Wales, with the latter much more heavily embracing these shifts than the Netherlands.

2.4 Summary

Overall then, there appears to be both signs of convergence and divergence in the socio-political sphere. In the former sense, both jurisdictions show signals of a more volatile and politicised landscape; a shift away from welfare-oriented perspectives to neoliberal and neoconservative framing of problems and responses; and the responsibilisation of actors and agencies above, beyond and below the nation state in the provision of services. However, the degree of convergence remains questionable given that there are still clear points of difference which are rooted in the ‘...residues and continuations of older arrangements’ (Garland 2001:167) which have an important impact on the development of policy responses. Namely, this can be seen in terms of political institutions (first-past-the-post ‘Westminster system’ vs. proportional representation and guaranteed coalition rule), political cultures (conflictual and adversarial vs. negotiation and bargaining), and relations between central and local authorities (largely centralised system vs. ‘House of Thorbecke’ model).

From this chapter it has become apparent that there have been varying degrees of convergence and divergence in the way in which, at a national level, these states have adapted to the changing social conditions associated with a transition from modernity to late-modernity. In turn, it appears that there has been some degree of convergence around the transformation of older social democratic forms of governing towards neoliberal philosophies. Next, there is a more specific focus on how such patterns have been felt within the area of cannabis control, which sets up the central propositions of the study: that it can be expected that there has been both inter-national convergence and intra-national divergence in how responses to cannabis are created and managed.

Chapter III

Crime and Cannabis Control in England & Wales and the Netherlands

3.1 Introduction

This chapter seeks to lay the foundations for the substantive empirical analysis through an examination of developments in illicit drugs and cannabis control in England & Wales and the Netherlands. The purpose here is to critically apply the culture of control thesis in the policy sphere of concern, before going on to later empirically scrutinise and clarify the conditions in which such tendencies are realised or resisted in relation to the policy making process of recent changes to cannabis policy. Before doing so, however, it is first worth outlining developments in the international sphere which have established important governance frameworks pertaining to illicit drugs control.

3.2 The Governance of Drugs from Above

Contemporary control of cannabis in England & Wales and the Netherlands is largely based upon a set of international regulations governing how signatory states should respond to cannabis. However, whilst such arrangements have largely stunted the diversity of options available for regulating the production and supply of illicit substances, there is significant scope for individual countries to carve their own responses to sale and possession. Developments at this level demonstrate features indicative of an emergent culture of control, with evidence of adaptation, denial, and the facilitating of new risks and threats.

Developments in the Early 20th Century

The control of cannabis at a global level stems from a history of diplomatic obligations and bargaining between countries, from which the 1925 International Opium Convention was seen as a starting point for the prohibition of cannabis in European countries. Claims were made primarily from the Egyptian consulate that their mental asylums were full with individuals who had smoked hashish (TNI 2014; Mills 2012)¹². As cannabis was of little

¹² On further inspection however, Mills (2012) notes that the genesis of this data on links between hashish and insanity were based upon the observations of an Englishman who did not understand or

concern amongst the majority of Western countries at this time due to scarcity of the plant, the pressure from the Egyptians ultimately led to the inclusion of cannabis under substances to be prohibited.

Following these early links of cannabis to mental health problems, narratives of cannabis as a dangerous drug emerged in the USA, where cannabis use was becoming more widespread particularly amongst Mexicans and African-Americans, with the latter's use becoming synonymised with the growing jazz scene. Importantly, and perhaps not surprising given race relations, the use of cannabis by such individuals became integrated into fears about the properties of the drug, leading to the widely publicised 'reefer madness' campaign with fears centred round the notion that cannabis caused sexually violent behaviour. In addition to these concerns, it is contended that there was a challenge by a number of individuals who had vested economic interests against the growth of cannabis, due to technological advancements allowing easier and cheaper processing of industrial hemp into paper and other useful products (See Herer 1985).

As a result of these factors, the U.S Marijuana Tax Act 1937 introduced a tax on the selling of cannabis which effectively destroyed the industrial hemp industry and further shaped the dominant perspective on cannabis (ibid.). The implications of these developments are that the international construction surrounding cannabis was based upon a racially-discriminating, moralistic, and ill-informed research base combined with other economic interests. Given the domineering power of the USA on a global level, these types of narratives took prominence in shaping subsequent international frameworks (TNI 2014).

Global and European Governance Frameworks

Whilst it has been noted that international agreements stretch back to the early 20th century and earlier, such collaboration has increased significantly in the latter half of the 20th century. Placed within the context of globalising theses and the culture of control, it is possible to see overall developments at a supranational level as evidence of both adaptive and non-adaptive strategies.

In the former sense, the relinquishing of state sovereignty to supranational bodies signals an acceptance of state limitations in responding to illicit substances. The production, supply and consumption of drugs takes place across multiple states, and such activities have only been facilitated further in a global age of expeditious transportation and

speaking the local language and whose methods were somewhat amateur in comparison to today's standards.

communication. Thus, it has become increasingly necessary to co-ordinate overarching responses to be more effective in the allocation of resources and to work in collaboration with others.

However, such responses also take place within a deeply moralistic conception of the place of certain drugs within society. Such evaluations have been shaped by the socio-political histories of dominant players in the international sphere, which in relation to cannabis, have conceptualised the substance as inherently dangerous. In this sense, the continued and enhanced supranational commitment to the eradication of its use demonstrates a form of denial; that despite alternative conceptualisations and the challenges of trying to control a naturally-occurring plant, nation states have an obligation to protect their citizens from a perceived threat to social order and individual wellbeing.

The 1961 United Nations Single Convention on Narcotic Drugs remains the most pivotal international treatise as it elevated the prohibition of cannabis to a global level including 73 original signatories. According to the International Narcotics Control Board (2012), '[t]he principal objectives of the Convention are to limit the possession, use, trade in, distribution, import, export, manufacture and production of drugs exclusively to medical and scientific purposes and to address drug trafficking through international cooperation to deter and discourage drug traffickers'. There are four schedules included in the convention, with cannabis considered one of the most dangerous drugs¹³. It is listed both in schedule I and in schedule IV as a drug which poses significant dangers and has few therapeutic characteristics. Thus, based upon the history and skewed scientific knowledge present at that time, cannabis was adjudged as a very harmful drug to which countries should adopt tough prohibitionist tools to prevent its misuse.

However, Ballotta et al. (2008) point to the fact that the 1961 convention does give individual states the potential to deviate from a strict prohibitionist model. For example, article 2.5a states that countries should adopt *special measures if considered necessary* (United Nations 1961:3). As this is more obligatory than required, it leaves countries discretion to carve their own drug policies as has been seen with the Netherlands. Thus, whilst the 1961 convention stipulates that cannabis should receive the most stringent

¹³ Ballotta et al. (2008:102) concisely differentiates between the different schedules: 'Schedule I — those substances which are, inter alia, having, or convertible into substances having a liability to abuse comparable to that of cannabis, cannabis resin or cocaine; Schedule II — having addiction-producing or addiction-sustaining properties not greater than those of codeine but at least as great as those of dextropropoxyphene; Schedule III — preparations which are intended for legitimate medical use, and which the WHO considers not liable to abuse and cannot produce ill effects, and the drug therein is not readily recoverable; and Schedule IV — substances that are particularly liable to abuse and to produce ill effects, and such liability is not offset by substantial therapeutic advantages not possessed by substances other than drugs in Schedule IV'.

control, there is also scope for countries to negotiate on the *necessity* of such control, leading to 'soft defections' from international frameworks (TNI 2014).

Further conventions of 1971 and 1988 have reinforced global prohibition. The 1971 convention placed THC in schedule I with its use prohibited except for scientific and limited medical purposes (United Nations 1971). The 1988 convention is much more focussed on the trafficking of illicit drugs and sets in place a series of repressive standards that signatories should follow. Notably, that possession with intent for trafficking and possession for personal consumption should be criminalised (United Nations 1988; Ballotta et al. 2008). Despite continued suggestions from the World Health Organisation (WHO) to move THC into lower schedules which would allow further scope for liberalisation and medicalisation, there has been little support for this (TNI 2014; World Health Organisation 2006).

In a European context, developments have been balanced between a policy harmonisation project, envisaged with the creation of the European Union under the Treaty of Maastricht in 1992, whilst simultaneously granting autonomy to member states to develop drugs policy as they see fit (keeping within the broader UN Conventions) (Chatwin 2013). Whilst the Maastricht Treaty placed drug addiction and drug trafficking under the justice and home affairs pillar, the extent to which the EU has forced member states to become harmonised has remained limited (Edwards and Galla 2014).

The context of the European Union provides particular challenges for illicit drugs control, and developments at this level should also be seen as contributing towards the generating of new risks and threats which feed into a culture of control. Most prominently, the opening up of European state borders under the Maastricht Treaty has had profound consequences for how to respond to, and manage, illicit drugs markets. This is particularly relevant when considering overt points of divergence, such as with Dutch cannabis policy, whereby differences in policy across member states has the potential to create substantial problems and political tensions.

Further legislative developments in the EU have seen the provision of greater powers in the area of justice and home affairs under the Treaty of Amsterdam 1999, with a particular focus on combatting organised crime and drug trafficking, whilst public health interests increased under the Treaty of Lisbon 2009, granting the European Commission to start initiatives in this area (ibid.).

Over the past two decades a series of action plans and strategies have attempted to improve European drugs policies through a focus on increased co-ordination (through research and data sharing by the EMCDDA and Europol), demand reduction, and supply reduction (e.g. EU 2004; 2008). These latter components echo familiar discourses about drugs

and its use, and there are significant challenges in reducing the problematic effects of drugs production and trafficking that have become synonymous with organised criminality. However, in respect of users, it is particularly noteworthy that all member states have now adopted harm-reduction measures, and increasingly are experimenting with other forms of drugs control, such as medical access for heroin and the decriminalisation of some, or all, drugs for possession offences (Chatwin 2007; Hughes and Stevens 2010; 2012). Thus, in the European context there is again evidence of adaptive and non-adaptive strategies which display a bifurcation between harm reduction and punitivism. Notably though, such strategies appear to target different activities, with users being subject to more adaptive responses, whilst production and supply activities are targeted through punitive approaches.

3.3 England & Wales

Developments in illicit drugs and cannabis control in England & Wales are usefully understood through the culture of control lens. This is especially the case when considering arguments for the 'normalisation' of cannabis use and the crisis circulating heroin addiction; but as O'Malley (2002) rightly argued, Garland is rather silent on the topic, and his analysis therefore fails to capture the contingent aspects which have inevitably been glossed over by a 'birds-eye' perspective. Following the spirit of Garland's analysis, the section critically examines the place of illicit drugs and cannabis in the transition of penal-welfarism into a culture of control.

3.3.1 A Penal-Welfare Approach to Illicit Drugs Control?

The 'British Model' and Early-20th Cannabis Control

The history of drugs policy in England & Wales over the past couple of centuries has been marked by moral and racial castigation, trade interests linked with colonialism, and medicalisation. A distinct moral imperative of drugs policy developed throughout the Victorian era and was shaped largely by quasi-religious conceptions that drug use is in itself wrong due to a corruption of mind and body, and therefore efforts have always been committed to its eradication on a moral basis.

However, although current drugs policy in England & Wales is based upon prohibitive laws, this was not always the case as only a century earlier Great Britain, and her colonies, were large producers and exporters of opium. The dominance of Great Britain in the world between the 17th to 19th centuries allowed her to develop significant trade routes in opium throughout the colonies. The British cemented a monopoly on the market following the end of the 'opium wars', and as a result, the opium trade was legalised alongside other trade impositions made by the British (Beeching 1977).

The importance of this is that it allowed opium and later heroin (diamorphine) to be established as the dominant solution to many medical problems within Great Britain. As opiates became firmly established into physician's practices, this also led to the creation of a small population of dependent users existing largely in professional circles. Given the importance of the opium market in British trade, this allowed drugs policy, and specifically regarding more addictive substances, to be marked by a paradigm of 'medicalisation'¹⁴ which accords with Garland's notions of penal-welfarism (Shiner 2003). This 'British system' of drug control was affirmed in the 1926 Rolleston Report, which attempted to define contexts in which prescription should be advocated, primarily for heroin and morphine, to enable gradual withdrawal or to prevent serious disruptions to people's lives (Measham and South 2012; Ministry of Health 1926).

The place of cannabis within this largely medicalised context of drugs control is one of relative obscurity. The use of cannabis as a medicine in Britain can also be traced to the 19th century, with evidence that the first recorded extract of hashish in alcohol was made and sold in a chemist's shop in 1842¹⁵ (Booth 2003). However, the extent of the use of cannabis in medicine during this period was very limited and can be attributed to the dominance of opiates in treatment, a lack of regular supply, and uncertainty over its action in different patients (Berridge 1981; Taylor 2008). Thus, cannabis has not always been seen as dangerous, and indeed beyond medicinal uses, industrial hemp has long been recognised as a very valuable fibre (for example, to make rope, sails, clothes and paper. see Herer 1985).

But as its use as a medicine remained limited, and in combination with pressure from Egypt and the lack of knowledge or willingness to object (the UK abstained from the vote on cannabis in 1925), cannabis became maligned from a medical framework and shifted towards

¹⁴ However, this model has been questioned on its apparent dominance by some for its position within moral and penal discourses, and that comparisons between British and American models between the 1930s and 1950s represent differences in widely differing social circumstances rather than showing the benefits of a medical model of drug control (Kohn 1992; Berridge and Edwards 1987).

¹⁵ Moreover, its therapeutic benefits were written about in the 19th century by Queen Victoria's physician, who claimed that cannabis is '...a most valuable medicine in the nocturnal cramps of old and gouty people; it in some cases relieves spasmodic asthma, and is of great service in cases of simple spasmodic dysmenorrhea' (Reynolds 1890:38).

a system of control and restriction. In ratifying the Second International Opium Convention, cannabis was prohibited in 1928 following an amendment to the Dangerous Drugs Act.

Throughout this period of early international developments and experiences regarding cannabis, the (mis)use of cannabis in Britain remained rare up until the 1950s (Booth 2003), thus not presenting any significant issues for criminal justice agencies in responding to its use. But in the context of growing international cynicism and in some cases outright moral propaganda against cannabis, and combined with a prevailing medical approach which was entrenched in the use of opiates, the issue of cannabis became side-lined from the dominant medical approach to drugs and instead lay relatively dormant within a criminal justice perspective. These early patterns appear to lie in tension with the broader narrative of a penal-welfare approach to illicit drugs, but instead evidences the underlying presence of a politics of fear, ignorance and moral indignation about a substance which did not correspond with how opiates were viewed and 'treated' within a medical model.

Establishing the Contemporary Framework of Illicit Drugs Control

Given the framing of cannabis in an international context preceding the 1961 UN Convention, it is unsurprising that cannabis was placed in the highest schedule alongside other highly addictive substances. But in the same year of the 1961 treatise, the Brain Committee argued that '...In our view cannabis is not a drug of addiction; it is an intoxicant' (Brain Committee 1961, in Booth 2003:370). However, in 1965 the Dangerous Drugs Act came into force, ratifying the UN convention and consolidating the previous Dangerous Drugs Acts (Measham and South 2012). As with the UN categorisations, cannabis was equated with opiates, with no distinction between possession and trafficking of the drug. Following this piece of legislation, the reconvened Brain Committee reported similar findings from four years prior, and added that there was a '...risk that young people may be persuaded to turn to cannabis' (Brain Committee 1965, in Booth 2003:370).

The report of the second Brain Committee was published amid growing use of cannabis beyond ethnic minority groups largely from the Caribbean, and its increase was influenced by its popularity in celebrity circles and the growing counter-culture youth movement (Young 1971). Set within this context, cannabis came to be highly symbolic and indicative of a zeitgeist centred on individuality and liberty.

The increase in use particularly amongst the middle class shifted attention onto cannabis and gave concern to political elites wishing to protect their own from a perceived

external threat. The reaction from law enforcement bodies was one initially of hostility, with the number of convictions for cannabis offences rising from 4 in 1945 to 2,393 in 1967 (Advisory Committee on Drug Dependency 1968)¹⁶. Such observations were certainly pertinent in labelling explanations which saw the ‘agencies of social control’ as contributing towards deviancy amplification and social exclusion (Becker 1963; Young 1971).

In reaction to the perceived over-zealous actions by law enforcement, a campaign was initiated in 1967 by The Society of Mental Awareness (SOMA). SOMA took out a full-page advertisement in *The Times* newspaper with the headline: ‘The law against marijuana is immoral in principle and unworkable in practice’. The advertisement was accompanied by 65 signatures from famous individuals from various backgrounds, such as music, psychiatry and art (Booth 2003).

As a reaction to criticism of the government for its stance on cannabis, an Advisory Committee on Drug Dependency was established with a sub-committee headed by Baroness Wootton created in 1967 to investigate the position of cannabis within the legal framework. The UK was not in isolation in reflecting upon cannabis legislation at this time, with similar committees established in the Netherlands (Werkgroep Verdovende Middelen 1972), the USA (National Commission on Marihuana and Drug Abuse 1972), and Canada (Commission of Inquiry into the Non-Medical Use of Drugs 1972).

The Wootton Report questioned the approach the government had taken with regards to criminal sanctions for cannabis offences and suggested that ‘...the long-term consumption of cannabis in moderate doses has no harmful effects’ (Advisory Committee on Drug Dependency 1968:9). They went on to argue that ‘...the present penalties for possession and supply are altogether too high’ (ibid:27), and as such prison terms for possession should be very limited. In some ways this corresponds with the characteristics of penal-welfarism. Wootton herself was an esteemed and respected critical social scientist, typical of liberal ‘platonic guardians’ seeking to provide freedom and protection *from* the state. Moreover, the influential position of expertise upon policy-making during this period placed the commission in good stead to make changes to legislation.

But despite the recommendations made by the Wootton Committee the government largely ignored the advice. As the Home Secretary at the time, James Callaghan, noted:

‘...to reduce the penalties for possession, sale or supply of cannabis would be bound to lead people to think that the Government take a less than serious view of the effects of drug-

¹⁶ However, it should be noted that recording of cannabis use and police action at this time should be interpreted with caution as changes in recorded rates could be partly due to the formation of drugs squads and more rigorous enforcement.

taking. That is not so. ...Because we have a number of social evils in this country at present it would be sheer masochism to add to our evils by legislation to make it more easy for people to introduce yet another one.' (The Times 1969:8)

Thus, some patterns in this period parallel with the dominance of a penal-welfare paradigm and were perhaps also prevalent in influential circles in civic society. However, political ideologies, conceptions and pressures faced towards particular forms of substance use showed a continued commitment to a tough prohibitionist position, labelling cannabis use as an 'evil'.

In the wake of these debates, the Government introduced the Misuse of Drugs Act in 1971. This piece of legislation remains the foundational framework of contemporary illicit drugs control in the United Kingdom, and split illicit substances into three categories, A, B and C, which are based upon '...the social harm attributable to a drug when it is misused' (House of Commons 2000). Cannabis was placed in the Class B category, which carries with it a maximum of five years imprisonment and/or an unlimited fine for possession, and up to fourteen years and/or an unlimited fine for production or supply. So despite the government refutation of the Wootton Report, it is plausible to suggest that it still had an influence in shaping the Misuse of Drugs Act in that there was a distinction between different types of offences (possession and supply etc.).

The Misuse of Drugs Act was accompanied by the introduction of the Advisory Council on the Misuse of Drugs (ACMD), whose purpose is to review the situation of drugs, and make recommendations to government based upon research. The establishment of the ACMD occurred at the purported pinnacle of penal-welfarism and *prima facie* indicates the dominant role of scientific and independent advice on policy decisions. However, the ACMD encounters a rather paradoxical position in that it can only discuss recommendations within the framework in which it was established. Thus, to suggest that some drugs be legalised or otherwise controlled or to dissolve the Misuse of Drugs Act would not be possible within its remit. Whilst seemingly set up to support and foster expert-driven policy, the ACMD is arguably confined within a moralistic ideology about drug use.

An important point to note is that the link between drugs and criminality (beyond proscribed drug offences) was still not apparent at this time, and it was not until the 1980s that a distinct change occurred which firmly aligned illicit drug use with acquisitive crime and anti-social behaviour. Since this initial period, surface developments in the drugs policy field as a whole seem to indicate the existence of a schizophrenic culture which balances 'populist punitive' insecurities, managerialist discourses and techniques, and adaptations to the

administrative realities of dealing with a new drug 'policy predicament' (Garland 2001; Seddon 2008).

The Emerging 'Crisis' of Illicit Drugs Control

Following the Misuse of Drugs Act in 1971, legislation specifically concerning the classification of cannabis remained the same for the next 33 years. However, there were important shifts in the way in which illicit drugs and criminality more broadly were reconceptualised and framed as objects of control.

An important facet connected to both changes in the recorded prevalence of crime, as well as fear of it, lies in relation to the increase in illicit substance use both by 'respectable' middle-class youth as well as by individuals in lower social strata and from ethnic minorities. The aftermath of the hippie counter-culture, which embraced cannabis and other psychoactive drugs such as LSD, saw the rise of a new zeitgeist in the late 1970s and 1980s with greater availability of heroin and cocaine. It has been noted that heroin was used in small circles of dependent professionals prior to this time, but in the context of increased flows of people, goods and cultures, heroin became more widely available and appealed not only to the hippie generation, but also, and more worryingly for the state, to lower social classes and ethnic minorities in urban communities already experiencing social problems associated with deindustrialisation (Seddon 2006; 2008). It is at this point that the link between drugs, community degradation, violence, and anti-social behaviour became more firmly established (e.g. Jarvis and Parker 1989; Parker and Newcombe 1987), and contributed towards a broader questioning of the penal-welfare system and the ability to maintain a medicalised system.

The rise of heroin and continuation of other forms of illicit drug use correlate with Garland's broader arguments about the ineffectiveness of traditional responses in dealing with issues of law and order. Such increases challenged the ability of penal-welfarism to successfully reduce crime and prevent drug use. More specifically, the prohibitionist framework solidified in the 1961 UN Convention appeared to be doing little to stem the increases in drug use, and as a result, alarming new challenges surfaced. This can be seen both in the sense of public health with the spread of AIDs and other blood-borne viruses amongst injecting drug users, and also in the arena of crime control, with the upsurge in criminal activity having become intrinsically related to the new wave of drug addicts. As such, this feeds in to Garland's (2001) notion of a 'policy predicament' as the state was faced with

the need of adapting to failures of traditional approaches, whilst being wary of the political ramifications of withdrawing the projection of sovereignty in the provision of law and order.

3.3.2 The Shift to 'Schizoid' Drug Control Policies

The Culture of Illicit Drugs Control?

In relation to the illicit drugs field, the culture of control appears useful in explaining the bifurcation between the preventative 'harm reduction' approach and the reactive 'war on drugs' which has come to characterise the field.

In the sense of denial, this has been intimately connected with the rise of heroin and politically tough rhetoric of the New Right. During the 1980s, Republican president Ronald Reagan regurgitated Nixon's 'war on drugs' rhetoric to signal a tougher, law enforcement-focussed approach to dealing with the increasing drugs problem. The political and moral rhetoric was to some extent transferred and shared in British drugs policy under the Thatcher government. As Seddon (2006; 2008) suggests, heroin, and later crack-cocaine, became linked with an undeserving and socio-economically deprived group of individuals with links made to acquisitive crime. There is not the space here to fully delve into such issues, but in relation to cannabis it is crucial to state that the 'epidemics' of drug use became explicitly linked to a 'gateway theory' (Kandel 1975) which suggested that the use of cannabis then led onto the use of more dangerous substances which was causing serious disintegrative and criminal effects.

Following Garland's (2001) and Young's (1999) analyses, illicit drug users became further excluded and marginalised from society, seen as a 'dangerous others' who posed threats to the core of society, and in response, punitive measures of segregation, incarceration and control were imposed to manage such risky populations. Although most of the attention prior to the 1980s had centred on the rebellious use of cannabis, political and public attention largely shifted onto the new and rising problems of heroin and crack cocaine. Again, given that problematic (in the sense of being related to criminality and community degradation) use of these substances was largely located in the lower strata of society, commentators have argued that drugs policy has become a means *through* which to govern and manage problematic populations (Simon 2007; Wacquant 2004).

Tougher measures were introduced under several pieces of legislation, notably the Controlled Drugs (Penalties) Act 1985 and the Drug Trafficking Offences Act 1986, which

increased maximum penalties for Class A trafficking to life imprisonment and allowed the police to seize assets. Moreover, other pieces of legislation were introduced which placed more stringent conditions on drug offenders, such as mandatory treatment and monitoring (e.g. Crime and Disorder Act 1998 and Drugs Act 2005).

A further point to make is that since the inception of the Misuse of Drugs Act, only one substance has travelled downwards in its classification (cannabis in 2004), with other substances either moving upwards or being added to the list of prohibited substances. A final component to note in this vein relates to the impact of 'moral panics' in relation to drug use. Much attention has been paid to heroin, but equally important are the waves of drug use that have risen in particular cultural zeitgeists, each with accompanying panics over their effects and reactions which have sought to criminalise and prohibit their use¹⁷.

But whilst such developments may indicate 'knee-jerk' type reactions which have attempted to renew confidence in the model of prohibition as an effective tool in combating the purportedly moral and criminal evils of illicit drug use, there have been simultaneous developments more adaptive in nature. In perhaps the most prominent sense, there has been a departure from the dominant view that drugs eradication is a viable goal with moves towards drugs management. With the rise of heroin in the 1980s and the proliferation of serious health problems, a 'harm reduction' movement arose. Rather than seeking to stop users from using illicit substances through traditional and failed law enforcement methods, there was an implicit acceptance that individuals will use drugs, and as such, measures should seek to minimise the harms associated with injecting drug use. One of the most important responses was the introduction of needle-exchange programmes and public health campaigns which effectively reduced the transmission of blood-borne viruses.

A further notable example of the adaptive and preventative shift in drugs policy can be seen in relation to the development of multi-agency partnerships. Whilst multi-agency working developed during the 1980s, it was not until the 1995 drug strategy that Drug Action Teams were created to specifically look at problems created by illicit drugs (Home Office 1995; MacGregor 2006). These early incarnations were then given more prominence under the New Labour government which established statutory Crime and Disorder Reduction Partnerships (Community Safety Partnerships in Wales); the premise of which was to bring together all relevant agencies who deal with substance misuse (most notably health and criminal justice) to find more effective solutions and to promote joined-up working.

¹⁷ Examples here include the media storm over the death of Leah Betts after her use of ecstasy in the late 1990s; the criminalisation of 'magic mushrooms' in 2005; and more recently the furore over 'legal highs' or 'new psychoactive substances'. Certainly in the case of ecstasy and 'magic mushrooms' which were made Class A drugs, the scientific evidence suggests that their relative harmfulness is far lower than other drugs in this category (Nutt et al. 2007).

The election of Tony Blair's New Labour to office in 1997 marked an ambivalent mix of strategies in drugs policy. One of the primary goals of the early Blair administration was to tackle the vast increase in crime which had occurred over the past 50 years. Central to this was the connection between problematic Class A drug users and acquisitive crime. Significant investments were made to deal with these dual problems through methadone maintenance programmes and tough criminal justice interventions as envisaged in the drug strategy *Tackling Drugs to Build a Better Britain* (Home Office 1998; 2002a; 2004). But whilst the approach towards Class A drugs has seemingly shifted away from medicalised control and towards an increasingly repressive and risk management approach over the past 40 years, the place of cannabis in the early Blairite years reveals a different side to the purported 'culture of illicit drugs control'.

The Case of Cannabis

Whilst the issue of cannabis did not disappear in a policy sense, the gaze of political and public attention was largely focussed on heroin, crack cocaine, and stimulants of the rave culture until the mid-1990s. Following the arguments set out above, prohibitive efforts appeared to do little to stem the rising prevalence of use and it became the most widely used illicit drug. Estimates suggest that *lifetime* use in England & Wales increased from approximately 0.5% in 1968¹⁸, to around 6% in 1982, and then rapidly increasing to 29.5% in 2000 where it has remained relatively stable since (Advisory Committee on Drug Dependency 1968; Young 1971; Home Office 1982; Home Office 2012a).

For some, this indicated the 'normalisation' of recreational drug use in the experiences of youth during the 1990s (Parker et al. 1998). This age group typically uses illicit substances more than the general population, and by the end of the millennium the proportion of 16-24 year-olds reporting *lifetime* and *last year* cannabis use was 46.2% and 27% respectively (Home Office 2013a). Whilst this concept became deeply contested within the criminological academy surrounding arguments of more active trends of use and the number of individuals who 'just say no' (see Shiner and Newburn 1997; 1999; Wibberley and Price 2000; Measham and Shiner 2009), it is fairly undisputed that the policing of cannabis possession offences became burdensome for law enforcement agencies.

¹⁸ This approximation is based upon the largest estimation provided in the Wootton Report, 300,000, and the population at the time, approximately 55 million. However, Young (1971:11) contends these figures by arguing that '[t]here can be little doubt that the actual number is considerably larger than the latter figure and that this number is steadily growing'.

By the end of the 1990s, the policing of cannabis was a serious task, with 93,190 officially recorded seizures in 1998, most of which were for low-level possession offences (Mwenda et al. 2005). Research found that one in seven offenders were cautioned or convicted for cannabis possession, and it was estimated that the policing of cannabis equated to the time of 500 full-time police officers and cost £50 million per year (Warburton et al. 2005; May et al. 2002). However, recognising that policing involves a set of working 'rules' which allow for discretionary behaviour (Reiner 2010; Smith 1986), research found that two-thirds of police officers interviewed 'turned a blind eye' to possession offences (Warburton et al. 2005). Moreover, the research by May et al. (2002) found that 3% of police officers who had made any arrests for possession of cannabis accounted for 20% of all arrests. Such evidence suggests the possibility of divergence between tough talk and decisions (as enshrined in political rhetoric and the Misuse of Drugs Act), and policy action 'on the ground'. But additionally, it points to further divergence amongst policy practitioners, highlighting the uneven performance of policy.

As prevalence and consumption of recorded cannabis figures rose significantly throughout the 1990s, pressure began to mount on the government to reconsider its position on cannabis which diverged from the broader approach to other illicit drugs. This demonstrates the other side of the 'drugs policy predicament' outlined by Seddon (2008), not only highlighting the ineffectiveness of current responses but also raising questions of the administrative capacities of the criminal justice system in dealing with such a large processing of offences. This echoes Garland's suggestion that rising crime (and drug use) levels became a 'normal social fact', to which the state faced a predicament of either 'adapting' or 'acting out'.

In 1997, the British newspaper *The Independent on Sunday* launched a media campaign to decriminalise cannabis. Following this, in 1997 the Police Foundation established an independent inquiry into drugs legislation, led by Dame Ruth Runciman (Police Foundation 2000). The Runciman Report proposed several fundamental recommendations concerning cannabis. Importantly, it was advised that cannabis should be reclassified to Class C, and that possession should not be an arrestable offence¹⁹. The reasoning behind this was based upon a growing body of evidence supporting the medical uses of cannabis (House of Lords 1998),

¹⁹ Under the Police and Criminal Evidence Act 1984, only drug offences which carried a maximum custodial sentence of 5 years or more were an 'arrestable offence' (see Lloyd 2008). Although note that from 2005 this distinction was eroded following the introduction of the Serious Organised Crime and Police Act which gave police constables the authority to use the power of arrest on 'reasonable grounds' if suspecting an individual had committed an offence.

its relative risks to other illicit substances²⁰, and that it would lead to greater efficiencies in policing. This latter aspect certainly chimed with the concurrent managerialist ‘modernising government’ agenda of New Labour (Monaghan 2008).

As such, the Runciman Report suggested that out-of-court disposals should be the preferred option. Relatedly, another dimension which was considered was that reclassification might remove a source of friction between the largely young cannabis consumers, ethnic minorities and the police (Police Foundation 2000). Certainly, after the strained police-community relations exacerbated by the Brixton riots and the handling of the murder of Stephen Lawrence there was much scope for improvement between the police and ethnic minority communities; especially so when considering the vastly disparate use of stop and searches (mainly for drugs offences) for young black males and evidence showing that cannabis use is no higher amongst this ethnic population as compared to white individuals (Woolner and Thom 2003; Eastwood et al. 2013; Home Office 2013a).

Following the publication of the Runciman Report, which received a mixed response in political networks but broadly positive reviews across different segments of the media, there was increased attention given to the debate on cannabis classification with the sense that the government had been caught out of tune with public sentiment. Importantly, the rise and influence of a liberalising agenda challenges the notion that liberal ‘platonic guardians’ have all but disappeared in the face of a punitive turn, but rather points to a perhaps rare, but apt ‘window of opportunity’ in which alternative policy voices became seriously considered in the policy debate (Kingdon 1995; Monaghan 2011).

Alongside these developments, a pilot project was introduced by the Metropolitan Police Service in 2001. The Lambeth Cannabis Warning Pilot Scheme introduced on-the-spot warnings for cannabis offences with the hope of alleviating time which could be spent on policing Class A drugs and related offences such as burglary. The results of this experiment showed that approximately 3 hours were saved in each case by issuing a ‘street warning’, and there was a 110% increase in detection rates for cannabis offences (Metropolitan Police Authority 2002). Additionally, surveys were conducted surrounding public opinion on cannabis and proposed changes to policing, which showed broad support by both residents and in the general population (Ipsos MORI 2002).

As the debate continued, the then new Home Secretary David Blunkett asked the ACMD to review the scientific evidence on cannabis. The Council recommended that cannabis be reclassified to Class C as it believed that ‘...the current classification of cannabis is disproportionate in relation both to its inherent toxicity, and to that of other substances

²⁰ Although it is still important to note that links between cannabis and mental health continued to be stated (see World Health Organisation, 1997).

(such as amphetamines) that are currently within Class B' (ACMD 2002:1). Such views were further cemented in the findings of the Home Affairs Committee (2002).

On the basis of support for reform, the evidence provided, and notwithstanding individual political goals, David Blunkett announced in July 2003 that cannabis would be reclassified to Class C. Although the reclassification progressed, eventually coming into force in January 2004, there was wide-spread confusion over how it would be policed. In response to media and police concerns, a compromise was made to keep the arrestable element for possession where 'aggravating factors' were present, but 'street warnings' (later termed Cannabis Warnings) were introduced as an out-of-court disposal (Home Office 2002b; ACPO 2003).

Additionally, sentences for production and supply were retained at the same levels as Class B drugs, with a maximum of 14 years imprisonment, further dissolving the divide between the classification of cannabis and other drugs²¹. Relating back to Garland's and Seddon's arguments, it is possible to suggest that the 2004 reclassification was an adaptation to the 'drugs policy predicament' which allowed police officers legitimacy to deal with cannabis in a more informal way which would reduce pressure on resources throughout the whole criminal justice system. This is characteristic of Garland's notion of 'defining deviance down'.

However, this is far too simplistic a characterisation of the 2004 reclassification as it also had a darker side which massively increased the number of possession offences recorded by the police. Indicative of this, Cannabis Warnings increased from 40,138 in 2004/05 to 107,241 by 2008/09 (Home Office 2012b). This was due to a perverse incentive structure linked to the use of Cannabis Warnings and the Offences Brought to Justice performance indicator which encouraged police forces to target low level cannabis offences as easy sanction detections (see Sosa 2012; Home Office 2013b).

Given that the substantive empirical analysis of the thesis examines developments surrounding and immediately following the 2004 reclassification, in order to account for how and why cannabis was reclassified back to Class B in 2009, it suffices to draw this section to its conclusion. Next, we turn to examine the nature and extent to which a culture of control has unfolded in the Netherlands before reflecting upon the usefulness of Garland's meta-narrative in explaining changes in the field over time.

²¹ Under the Criminal Justice Act 2003, the Police and Criminal Evidence Act was amended to make possession of cannabis (as a Class C drug) an arrestable offence as well as increasing the maximum penalties for Class C trafficking offences to 14 years, the same as Class B offences. This was partly fuelled by the fact that moving cannabis to Class C would have meant that trafficking penalties would have been less for cannabis than for tobacco offences.

3.4 The Netherlands

On the face of it, the Netherlands provides a critical case in the examination of cannabis policy in relation to the culture of control thesis. Historically, the Dutch have followed a very different approach to dealing with the selling and possession of small amounts of cannabis through the 'toleration' of coffeeshops and possession. However, in the field of crime control as a whole, and including drugs policy, there are increasing tendencies by criminologists to turn to a 'Garlandian' discourse to explain the changes that have occurred (Downes and van Swaaningen 2007; van Swaaningen 2005; Pakes 2004). Given that *The Culture of Control* was written in relation to the UK and USA, more attention is paid here to developments across the field of crime control as a whole, as well as a specific focus on illicit drugs and cannabis policy.

3.4.1 Dutch Tolerance and the Ideal of 'Resocialisation'

The development of crime control in the Netherlands is in some ways quite similar to that of England & Wales, with the rise and dominance of a penal-welfare state which came to the fore following the end of the Second World War. Whilst it is important not to 'mythologise' Dutch exceptionalism towards criminality and social life more generally²², the post-WW2 period saw a distinct paradigm come to dominate crime control. Similar to England & Wales, crime policy was largely shaped by liberal practitioners and academics. The influence of such experts meant that crime control was dealt with through a process of decarceration and an ideal of 'resocialisation', which suggested that punishment should be orientated towards the successful reintegration of an individual back into society (Boone 2011).

An important component of why the ideal of resocialisation took hold must be placed within the context of the 'trauma' of the war and occupation by Nazi Germany (Withuis and Mooij 2010). The period immediately following it gave reformers a perfect opportunity to

²² Franke (1990) produced a damning critique of Downes' (1988) comparative study for over-emphasising and glamorising the 'myth' of Dutch tolerance, reproduced by a lack of a more robust historical analysis of pre-World War 2 trends. As Franke (ibid:87) points to, 'only someone who is not familiar with the history of The Netherlands can write that Dutch colonialism "did not rest" on racism or racial feelings of superiority'.

inscribe long-lasting change on penal institutions based on notions of freedom and humanism. This was shaped by the moral entrepreneurship of a group of elites, comprised of criminologists, lawyers and psychiatrists, who came to be part of the 'Utrecht School' (van Swaaningen 2006; Junger-Tas and Junger 2007).

In order for this philosophy to be put into practice, a series of 'shields' had to be in place which involved several pragmatic measures to ensure that the prison population did not increase, such as parole and pardons and limited expansion of the penal estate (Downes 1988). Added to these socio-legal characteristics, Downes (1988) further alludes to the socio-cultural developments in the period as described in Chapter 2. Rising prosperity and stable political conditions led to a healthy welfare state which was able to function on the basis of social 'pillars'. A final reason posited for the dominance of penal-welfarism in this period is attributable to the fact that the crime rate rose later than in other European countries, and when it did rise it rose less sharply than in Britain.

The result of such dynamics was that the Netherlands managed to instigate a programme of decarceration. Indicative of this, between 1965 and 1975 average sentences were reduced from 12.8 months to 5.1 months for burglary, with also an increase in the percentage of prosecutions waived from 31% in 1960 to 59% in 1979 for the same offence (Downes 1982:330). What makes this even more exceptional is that this occurred in a period where the crime rate more than doubled.

The Seeds of Pragmatism and Medicalisation in Drugs Control

In relation to drugs control, the paradigm of resocialisation bears some importance, especially when considering the crucial demarcation between cannabis and other illicit substances in the revised Opium Act of 1976. But prior to this, there are other developments preceding this landmark Act which are somewhat more independent and relate to other cultural tendencies of the Netherlands, such as the prioritisation of trade interests and pragmatism. For example, the Netherlands had vested interests in trade it wanted to protect, notably in the far east, where it maintained a monopoly on opium in the Dutch Indies until 1942 (de Kort 1994).

But in these early years of illicit drugs control, there was also a pragmatic recognition of the fallacies in attempting to enforce prohibitive regimes: 'The simplicity of the restriction notion is, however, only superficial: one will encounter virtually unsurmountable difficulties in any attempt to implement this notice into practice' (Tan Tong Joe 1929:13-14, in de Kort 1994: original author's translation). In light of such practices and sentiments, opium addicts

were not typically prosecuted with a medical approach to illicit drug use preferred. Whilst trade interests formed an important aspect of this early approach, de Kort also points to the size of the addict population which existed in similar proportions to that of the UK. Moreover, and correlating with the development of a medico-legal approach to acts of deviance, the role of the medical profession was influential in policy development and implementation, with the task of enforcing the Opium Act balanced between the health and justice departments. Health was focussed on allowing doctors to prescribe drugs to addicts whilst justice was focussed on illicit trafficking and smuggling.

With regards to cannabis during this period, as in the UK its use remained limited, located primarily within small circles of artists and writers who would access it through the major port cities. After the Second World War use became associated with jazz musicians in some of the more cosmopolitan areas of Amsterdam and Rotterdam. Although trade in cannabis cigarettes increased after the war, the police were unable to do anything about it as possession was not made illegal under the Opium Act until 1953, and it was not until 1955 that the first arrests took place amongst smugglers and users (de Kort 1994).

The Development of the Cannabis Gedoogbeleid

From the 1960s onwards, cannabis had started to become more available and was consumed in an underground market mainly by those involved in a youth subcultural movement from well-educated backgrounds (Korf 2008). Cannabis use came to symbolise a counter-culture in which a new generation were keen to make a *doorbraak* ('breakthrough') (Andeweg 2008). At first, the police would rigorously enforce the laws on cannabis, searching for those in possession of small amounts (de Kort 1994). This highlights a similar pattern to events in England & Wales, seemingly demonstrating the separation of cannabis from a penal-welfare and medical approach. But following scenes of violence between the police and youth groups, an informal system of tolerated cannabis consumption and sales through 'house-dealers' located predominantly in youth centres began to take shape (Korf 2008).

In attempting to account for why the Netherlands started to adopt a different position on cannabis at this time, there are several important contributory factors. In comparison with the USA, de Kort (1994:17) argues that '[t]he Netherlands... lacked a specific ideology associated with marihuana... [and they] also lacked a moral entrepreneur' willing enough to criminalise the drug. As a result, the Netherlands was not committed to adopting the dominant ideological perspective shared elsewhere. When cannabis use spread throughout society, this was framed as a predominantly youth counter-culture issue, and as

such was treated with the same type of permissiveness granted to other 'deviant' practices at the time such as the diversity in sexuality and the legalisation of abortion (Leuw 1994).

As the police and other actors within the criminal justice system encountered and processed more cannabis users, there was a disjuncture between what was expected of cannabis users, through a US-dominated ideology assimilated earlier in the decade, and the stark reality of largely peaceful Dutch-Caucasian hippies using cannabis to express their feelings for a more democratic and equal society (ibid.).

Importantly, Uitermark (2004) argues that a significant aspect of why the Dutch followed an alternative route in cannabis policy can be attributed to the way in which the religious and other established mainstream parties responded to these growing divisions across society. As support for these political parties began to wane in the initial stages of depillarisation, there was a need to concede issues to the younger groups in society in order to not exacerbate the generational conflict.

Free from a dominant ideological perspective on cannabis, and in the spirit of a research-enlightened compromise-based approach to policy-making at a national level, two commissions looking at the issue of illicit drugs and specifically cannabis were established. The first, in 1969, was a private commission led by the penal abolitionist Professor Hulsman. With regards to cannabis, it suggested that it was less addictive than tobacco, and dismissed the 'gateway theory' by arguing that criminalisation of the drug would be one of the most important factors in leading users to turn to harder drugs, making it harder to return to socially accepted lifestyles (Leuw 1994; Buruma 2007). The spirit of the report was very much based within the zeitgeist of the time, drawing upon the ideals inscribed in the 'Utrecht School' and other established 'radical' philosophies: 'The government should not take a censoring position based on the fact that a certain behavior does not fit into the life-concept of those who are holding state-power' (Stichting Algemeen Centraal Bureau voor de Geestelijke Volksgezondheid 1971:40, in Leuw 1994). From a philosophical position, Leuw (1994:29) argues that it was '...based on the principle that the state should refrain as much as possible from interference with behaviors that have consequences for the individual person only'.

Again, the history of the regent mentality coupled with the context of war trauma is of relevance. In their wake it allowed for a flourishing of autonomy from over-zealous state intervention and the promotion of individual freedoms which contributed towards the articulation of alternative paradigms to cannabis policy (Pakes 2003). This liberal perspective was especially prevalent in the larger, more urbanised cities, with the colloquial name of 'Amsterdam Republic' referring to the city's status as independent from national rule. But it

also demonstrates how cannabis became politically normalised through liberal expertise; a key component of the penal-welfare paradigm.

Whilst the Hulsman Report may have been viewed as a more radical perspective about drugs and prohibition, it provided an influential context to the government-sponsored committee, headed by Professor Baan (who as noted earlier performed a key role in the 'Utrecht School'). The findings of the commission were communicated in much more pragmatic terms; there was no engagement with ideological or philosophical issues as had been the case with Hulsman. It examined the legal framework surrounding illicit drugs and suggested that cannabis should not be included in the same classification as those that pose 'unacceptable risks'. There was an acceptance that individuals will use cannabis, and as such it proposed that integration of the drug into society was possible, arguing that '...[t]his does not mean that no risks are involved, but that those risks could be acceptable' (Werkgroep Verdovende Middelen 1972:66, in Leuw 1994). Sharing a broadly similar perspective to Hulsman, this commission also suggested that most drug use consists of short-term experimentation by young individuals (Buruma 2007).

Through a dominant penal-welfare paradigm, which attempted to prevent stigmatisation and marginalisation, there was a concern to protect young people from the dangers of criminalisation. Consequentially, there was a desire to drive drugs policy through a variety of institutions that were not limited to criminal justice, primarily health, but also education and welfare, following in the same vein as the two-track approach ingrained earlier to the use and supply of opium (Leuw 1994).

Given the changing political context at the time, the findings of this report were almost all accepted by the centre-right government. But whilst the two commissions of Hulsman and Baan were clearly significant in granting legitimacy to the political normalisation of cannabis, it is perhaps more telling that these were indicative of a range of practices that were already apparent in Dutch society which sprouted from the local level of policy-making. It is at this level in which practitioners found pragmatic solutions to accommodate what was considered a relatively harmless substance. Thus, existing practices formed a base unto which scientific expertise via respected commissions legitimised and shifted cannabis into a health-driven framework away from more reactive and repressive criminal justice responses.

Following a *de facto* decriminalised experimentation with house-dealers, the state formalised its approach to cannabis control through the revised Opium Act of 1976 which distinguished between schedule 1 ('hard') and schedule 2 ('soft') drugs. Despite the Opium Act's official inception in 1976, its initial drafting originated three years earlier. As informal activities had been going on during this time, it allowed premises to refine their practices to

be united under the new legislation. The idea of this was also inherent in the Baan report which suggested that experimentation should form an important part of drugs policy evaluation, so ‘...when sufficient faith in the safety of new positions exists, then the old ones can be left’ (Werkgroep Verdovende Middelen 1972:74, in Leuw 1994). As will later be seen, this flexibility has left an important mark on contemporary policy-making.

The government proposed to have a 30g limit for cannabis possession before it would be considered a criminal offence. Whilst the 1976 Opium Act had officially incorporated a policy of *gedogen* (‘tolerance’) towards house-dealers, the rules concerning their operation did not come into force until 1980 (Jansen 1994), and thus grew out of existing practices that many of the youth centres had been enforcing on those selling cannabis over the previous decade (see Figure 3.1).

The *Guidelines for Investigation and Prosecution* were based upon the expediency

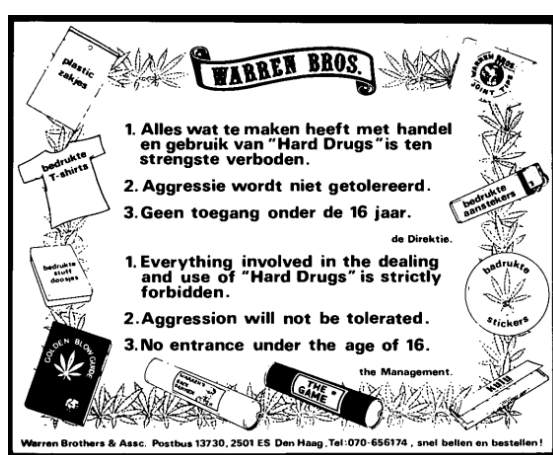


Figure 3.1 Early House Rules, in Jansen (1994:171)

principle, meaning that prosecution would be waived for certain offences under certain circumstances if it was in the public’s interest. Notably, Buruma (2007) argues that there was an important reframing of this principle in 1970 which shifted it from ‘prosecution, unless it is in the public interest’, to ‘prosecution, only if it is in the public interest’.

The implication therefore, is that law enforcement agencies should refrain from

prosecuting cannabis offences unless they contravene the dominant underlying principles of the health-driven policy. Thus, although the revised Opium Act ratified the UN Convention of 1961, the unique policy regarding cannabis was made possible on the basis that it was ‘necessary’ in order to protect public health through a separation of markets (see section 3.2).

These guidelines stipulated that the selling of cannabis would be tolerated (have a low prosecution priority) if the house-dealers abided by a set of criteria which later became known as the AHOJ-G criteria in 1991: no overt advertising (*Affichering*); no hard drugs (H); no nuisance (*Overlast*); no underage clients (18, or 16 in some towns)(*Jongeren*); and no large stocks (*Grote hoeveelheden*) (Buruma 2007; Korf 2002; van der Stel et al. 2009). Moreover, and quite significantly, in 1977 it was established that local tripartite consultations (mayor, chief of police, chief prosecutor) would determine the approach to cannabis retailers in municipalities (van der Stel et al. 2009). Again, this reiterates the implicit notion in Dutch

politics that local municipalities should have the authority to determine policies that fit the local context and thus empowered local practitioners to tolerate the selling and consumption of cannabis. By the end of the 1970s, the house-dealer became a powerful force in the cannabis scene and overtook the role of street dealers and the underground market (Korf 2008).

3.4.2 The 'Crisis in Penal-Welfarism' and Drugs Control

A Period of Uncertainty in Crime Control

The changes to drugs policy occurred at a crucial moment in the Netherlands which saw increasing strains placed upon a penal-welfare paradigm and the ideal of resocialisation. From around the mid-1970s onwards, cracks began to appear in the surface of a largely successful decarceration project. Similar to England & Wales, there were rapid increases in recorded crime from approximately 4,500 per 100,000 in 1980 to 7,000 in 1985. This challenged elitist views on penal philosophy that penal-welfarism was an apt model for the prevention of crime and resocialisation of offenders (Downes and van Swaaningen 2007).

The rise in crime has been attributed to processes of depillarisation, social and economic expansion, and notably large waves of immigration from former Dutch colonies. Specifically in relation to the latter aspect, Downes and van Swaaningen (2007) suggest that immigrants were mainly unskilled and often ended up unemployed, living in 'ghettos', with some becoming problematic heroin users. Thus, '...enough anomic strain was generated to fuel a steepening rise in the crime rate from the mid-1970s on, with drug-related crime coming to symbolise newly emergent problems, which began to test the penal consensus to destruction' (Ibid: 45). Certainly, the crimes and those committing them began to be more serious with the advent of heroin importation, and drug-related crimes committed by these new 'outsiders' challenged the traditional views about resocialisation and were largely responsible for an increase in those sentenced to imprisonment (Grapendaal et al. 1997, in Pakes 2000; 2005).

For advocates of the culture of control thesis, the consequences of this period questioned the tolerant approach towards crime and criminals as it caused a rupture in how the state should respond to the new threats of late-modernity due to rising crime and rising levels of fear of crime (van Swaaningen 2005). Official discourse became much more centred on policy-relevant analysis employing the 'criminologies of everyday life' and looked to crime

prevention and penal expansion in responding to public insecurities surrounding ethnic minorities and 'hard' drug users (van Swaaningen 2005; Pakes 2000).

These developments culminated in a distinctive point in Dutch criminal justice policy with the 1985 *Society and Crime* report (Ministerie van Justitie 1985). The main purpose of this report was to restore credibility back into the criminal justice system through distinctively managerialist measures to improve the efficiency and co-ordination of the system. This also correlates with the political and economic programmes that emerged during this period (see Chapter 2). Moreover, it signalled a shift towards the promotion of crime prevention measures led by local municipalities, highlighting responsabilising strategies in crime control (Jones 1995; van Swaaningen 2005). It was from this point forth that culture of control proponents suggest that the heart of Dutch criminal justice policy started to shift from one centred on the values of resocialisation and penal-welfarism, to one balancing efficiency and management of offenders with increased penal expansionism. However, it should be noted that proponents such as van Swaaningen (2005) have had tendencies to read off policy talk as evidence for the emergence of a shift to punitiveness. Although indicative of change in some sense, it does not reveal the full picture of policy change, highlighting the need to examine the different layers of 'policy' and the ways in which it is realised across different spaces and different fields.

The Rise of the Coffeeshop Phenomenon

Curiously, such accounts championing the decline of tolerance/increase in punitiveness argument during this unsettling period do not seem to encompass developments in cannabis policy. Even when Downes (1988) was writing in the late-1980s, his discussion of Dutch drugs policy brushes aside the issue of cannabis to focus mainly on heroin to support his argument of the 'limits of tolerance'.

Since the 1980s, there has been a major shift away from so-called house-dealers to commercial outlets known as coffeeshops which have become the image of cannabis *gedogen* in Dutch society. The establishment of cannabis coffeeshops was in part an accidental and unforeseen development. Again, rather than this being an invention of national policy-makers, coffeeshops started at a grass-roots level in the major cities, and most notably Amsterdam. Whilst the revisions to laws regarding cannabis primarily considered the role of house-dealers to perform the social function of separating markets, in the late 1970s café-style places began to tolerate the selling of cannabis. As the income from this source became more important to proprietors, and in combination with the publishing of

the prosecutor's guidelines, local governance 'triangles' recognised these outlets as a viable way of maintaining the market separation policy. As a result, the number of coffeeshops rose exponentially during the 1980s.

However, there are also other important factors to consider when looking at why numbers of coffeeshops grew so rapidly during this period. Even before the legislation of 1976 was established, which *de facto* legalised the sale of cannabis, the issue of heroin had become a prominent issue in Dutch society. As health issues became more pressing with the spread of AIDs, there was increased attention paid to heroin and how best to combat its negative effects.

Thus, it is possible to see how attempting to separate cannabis from 'harder' drugs became a pertinent policy goal. With heroin becoming the major threat, the issue of cannabis was shifted aside, seemingly being dealt with through tolerated outlets. Although heroin-related offending was linked to increases in punitive approaches, cannabis offences remained fairly well tolerated and siphoned-off through the distinction in the Opium Act.

It is also worth noting that whilst low-level sales and possession offences were dealt with through what MacCoun and Reuter (1997; 2001) describe as a model of '*de facto* legalisation', the approach towards supply assumed a much more aggressive form. Indicative of this, seizures of cannabis by the Netherlands accounted for 44% of the total for the European Union in 1995 (*ibid.*).

This suggests then that whilst in some areas a hardened tone was beginning to take hold, the decline of tolerance was not experienced evenly across all policy areas, and in the case of low-level cannabis offences, it seemingly flourished at a local level. This alerts us to the dangers of assuming that a punitive turn has fully taken shape at different levels of governance and its impact upon different policy areas.

3.4.3 The Emergence of 'Schizoid' Crime and Drug Control Policies

A Dutch Culture of Control?

From around the mid-1980s there were distinctive changes in the broader penal and social climate of the Netherlands which led to a rapid expansion of the use of imprisonment up until 2005, particularly in relation to 'hard drug', violent and sex offences. At one point, the Netherlands was proportionately expanding its prison population faster than the USA (Tak and van Kalmthout 1998).

Downes and van Swaaningen (2007) attribute the sudden emergence of a culture of control to several reasons. First, continuing increases in recorded crime spurred a challenge to the ideal of resocialisation. But not only did crime continue to rise, but there was a *qualitative* shift in the types of crimes experienced, as offences such as drug-trafficking and frauds became more widespread. Additionally, there was a process of 'net-widening' and 'up-tariffing' of minor offences, with more offences processed that would have previously been dismissed. Moreover, Grapendaal et al. (1997) and Berghuis (1994) suggest that violent and sex crimes were treated more severely, with the judiciary under pressure to sentence more heavily. This was also mirrored in penal capacity expansion, which from 1985 to 1997 more than doubled from 4827 to 12,224 (Pakes 2000).

Related to this was a distinct change in attitudes to crime and punishment following the publication of the first International Crime Victims Survey of 1989 which showed that the Netherlands had the highest crime rate of the 14 countries involved (van Dijk et al. 1990:41). Whilst the survey was critiqued on a methodological basis, the effect on public opinion further tipped the politics of crime control in a more punitive direction resulting in the *Law in Motion* report of 1990, which emphasised managerial instrumentalism (Ministerie van Justitie 1990; Downes and van Swaaningen 2007; van Swaaningen 2005).

From the early 1990s, crime control in the Netherlands became a central issue as more attention was paid to it, and these debates concerned immigration which was seen to be posing problems to Dutch social order. For van Swaaningen (2005), this signals a shift from community safety as primarily dealing with the social causes of crime, to one which now depends on risk profiles and tough political rhetoric. Downes and van Swaaningen (2007:57) further note that 'crime was implicitly portrayed as a problem outside of Dutch society rather than as a problem rooted in social and economic relations, as was hitherto the common vision'. The problem of multiculturalism posed ever-constant problems for a country which had moved away from previous patterns of segregation based primarily along religious cleavages, and crime was seen as a problem transgressing these traditional blocs (Pakes 2005). Indicative of this, in 1992 over 40% of the prison population was occupied by foreigners or second-generation immigrants (Boin 2001). Utilising Garland, it would seem then that in the face of an emergent crisis (of both crime and social identity) the state has attempted to affirm legitimacy in the provision of law and order through recourse to punitive means and a stripping back of the tolerant principles underlying the resocialisation approach.

Such issues have been exacerbated in recent years following the three key catalytic events outlined earlier in Chapter 2: First, the 9/11 terrorist attacks by Muslim extremists; second, the murder of right-wing political leader Pim Fortuyn; finally, the murder of the film

director Theo van Gogh by a Muslim fundamentalist. These developments were associated with growing 'Islamophobia', leading to panic across the Dutch population and subsequent reactionary efforts against Muslim communities which included proposals to ban the wearing of headscarves and arson attacks on Muslim buildings.

The effects of these problems in Dutch society have led to an increase in the penal estate, whereby from around the 1990s there was a massive shift to using imprisonment as a means in itself, rather than attempting to divert and resocialise individuals. Pakes (2005) suggests that the most important factor behind this rise in imprisonment is significant growth in average sentence length. For example, those who had committed a violent or sexual crime in 1985 received on average 280 and 250 days of imprisonment respectively. By 1995, this had increased to 471 and 501 days. Moreover, the number of prisons increased and the amount of prison sentences given has also increased rapidly since the 1990s leading to a peak in Dutch imprisonment in 2005 at around 120 per 100,000 (Downes and van Swaaningen 2007; Boin 2001; Pakes 2004).

It is within this climate that commentators argue that the liberal 'shields' (such as judicial discretion and diversion) which once protected the enlargement of the penal estate and served the tolerant approach have become unstuck and replaced with a spiralling fear about crime and safety. To some extent, whilst the growth of coffeeshops in the 1980s somewhat refutes the decline of tolerance theory, developments from the 1990s onwards fit into this master narrative of a punitive turn and ambivalent control strategies. The state has simultaneously attempted to confront growing problems through tougher denial responses, whilst also promoting adaptive strategies and reaffirming the separation of markets philosophy that underpins Dutch drugs policy.

The Case of Cannabis: Tightening Controls in an Insecure Landscape

Looking critically at the handling of the AIDs and heroin crisis which started to decline in the early 1990s, law enforcement agencies took this to be a sign that their increased enforcement had been successful (despite a widely accredited harm-reduction programme). As concerns about heroin receded, other drugs such as ecstasy and cannabis came back into the frame as objects which required further social control. At the same time, there was an on-going crisis within the Dutch police, with evidence of corruption and malpractice following a more moralistic 'zealous mission' of the then Minister of Justice targeting drug-related crime (Ossebaard and van der Wijngaart 1998:266).

In this regard, and coupled with heightened fears surrounding issues of crime and disorder, the issue of cannabis became increasingly constructed as a problem which required stricter regulation. However, that is not to say that there was not some ‘reality’ in there being issues with coffeeshops. A fundamental problem with the policy was that whilst the ‘front door’ of selling and consumption was officially tolerated, the ‘back-door’ of production and supply remained unregulated.

Alongside internal concerns about the back-door problem and the widespread growth of coffeeshops which were also increasingly linked to the supply of harder drugs in media reporting²³, the Dutch approach to cannabis had attracted widespread international criticism. From the outset of the revised Opium Act in 1976 the market separation policy angered the International Narcotics Control Board (see TNI 2014:50) and proponents of more prohibitive regimes, particularly from the US, France and Sweden. However, neighbouring countries Belgium and Germany also had cause for concern as it became evident that the Netherlands had become a hub of drug trafficking across Europe (MacCoun and Reuter 2001). Claims that 90% of illicit drugs in France had arrived through the Netherlands led to the accusation by French President Jacques Chirac that the Netherlands had become a ‘narco-state’ (Ossebaard and van der Wijngaart 1998). As state borders deteriorated following the Schengen Treaty of 1985 and the creation of the European Union in 1993, fears surrounding Dutch cannabis policy continued to dominate discussions both internally and externally. Moreover, as MacCoun and Reuter (2001) point to, this also manifested itself in the form of an interweaving of local complaints surrounding coffeeshop-related noise and disorder and increases in ‘drug tourism’.

These factors conditioned the context in which a new ‘purple’ coalition came to power in 1994, representing a distinctive policy window for a more progressive and liberal approach to drugs policy (see Chapter 2). Not only was this coalition promising for further liberalisation based upon their philosophical ideologies, but was also supported by the fact that both PvdA and D’66 had openly called for legalisation prior to winning the elections (Boekhout van Solinge 1999).

The culmination of these internal political shifts and external pressures led to the 1995 policy paper *Continuity and Change* (MacCoun and Reuter 2001; Ministerie van Volksgezondheid, Welzijn en Sport et al. 1995). For many international commentators, this was indicative of the failure of cannabis tolerance and the need to change course (Boekhout

²³ As one experienced drugs agency worker reflected: ‘I saw all the information by the newspapers, heroin, criminal people, people without passports, in the coffeeshops... how did it look so good the last 10, 20 years, I saw a completely other picture. But the police say that, and the journalists write it down, it must be true... we found out that from the 86 coffeeshops they were closed down, there were only 6 real coffeeshops, the rest were Turkish coffeehouses, with heroin, butchers...’ (NL-A-NGO1).

van Solinge 1999). In some regards, the policy proposals signalled a tightening of controls surrounding cannabis regulation. For example, the entrance age was increased and consolidated local practices into a national guideline of 18 years of age²⁴. Also, one of the major changes was a reduction in the maximum amounts coffeeshops could sell to a customer on a daily basis, from 30g to 5g. Additionally, and largely in response to international concerns, greater attention was paid to organised cannabis cultivation to prevent importation and exportation to neighbouring countries.

However, there were also signs that this represented a reaffirmation of the original goals of the drugs policy which solidified the *gedoogbeleid* in a more explicit fashion (Pakes 2003). For example, the total stock coffeeshops were allowed to hold at any one point in time was increased from the rather absurd limit of 30g to a more feasible 500g. Prior to this change, the police had considerable power in being able to close down coffeeshops which transgressed the 30g rule (which it is safe to assume almost all did given that they could sell that amount in one transaction). Ultimately, further measures which would have liberalised the back-door were abandoned due to the international pressures being exerted upon the Netherlands (Boekhout van Solinge 1999). However, by focusing on large-scale production and making low-scale cultivation a low prosecution priority by tolerating individuals growing up to 5 plants each, it instilled the notion that coffeeshops were to be low-scale local facilities serving local customers.

Moreover, and in keeping with a broader pattern of decentralisation in the Netherlands, local municipalities were given considerable powers in deciding whether to allow coffeeshops, how many could be established, and restrictions on where coffeeshops could operate (Wouters et al. 2010; Pakes 2005; van der Gouwe et al. 2009). In 2009, 77% of municipalities had chosen the 'zero option' (Bieleman and Nijkamp 2010). Furthermore, local mayors were given the power to close coffeshop premises that were causing 'nuisance'²⁵.

Such trends correspond with developments more broadly in the socio-political sphere which saw a return to the 'myth' of the 'polder model' during purple cabinet rule. In relation to Garland's thesis then, it would appear that although there was a tightening of the rules concerning coffeeshops, such developments do not easily fit into notions of a culture of control. The changes instigated in 1995 do not appear to be about economic managerialism or punitivism, but an example of Dutch policy-makers navigating an extremely rocky policy domain to search for a middle-ground between ideals of back-door liberalisation and

²⁴ Some municipalities previously allowed those aged 16 years and above entrance (Pakes 2005).

²⁵ 'Nuisance' refers to a collective of public order incivilities. With regards to coffeeshops, this predominantly relates to parking, noise, and loitering, but can also be extended to include drug dealing and other illicit activities located around the vicinity of coffeeshops.

international pressures for tighter regulation. Compared to other aspects of illicit drugs and crime control that were occurring during the same period, cannabis policy seemingly fared relatively well in not succumbing to the same pressures, demonstrated in the support given by national politicians for regulating the production and supply of cannabis to coffeeshops.

Thus, whilst other domains of the criminal justice system were being questioned in their *raison d'être*, belief in the virtues of the coffeeshops as a vehicle to separate cannabis from other illicit substances remained relatively intact. Moreover, the continued belief in the positive function of coffeeshops, in spite of increased rates of use, were further substantiated by the findings of MacCoun and Reuter (1997; 2001) who argued that the Dutch approach had relatively little effects on consumption. They do, however, point to the effect of increased commercialisation²⁶ during the mid-1980s to early 1990s as a factor in increasing rates of use; an effect which the 1995 changes aimed to quell (Room et al. 2008).

Following the 1995 policy paper, there was a marked effect on the total number of coffeeshops in the Netherlands. From the early approximation of 1500 coffeeshops in the early-1990s (Bieleman and Goeree 2001), from the mid-1990s this number significantly declined and continues to do so. In 1999, the number of coffeeshops was recorded at 846 (Bieleman and Nijkamp 2010).

The focus on drug-related nuisance and cannabis cultivation (*'hennepsteelt'*) continued throughout the late-1990s and into the early 2000s and further powers were granted to local municipalities to allow them to impose sanctions on, or closure of, coffeeshops that transgressed the tolerance criteria. Notably, the Damocles law (Article 13b of the Opium Act) was introduced in 1999 which allowed mayors to close coffeeshops '...if they infringe the terms of the local coffeeshop policies, even if no public nuisance occurs' (van der Gouwe et al. 2009; Ministerie van Volksgezondheid, Welzijn en Sport 2003). Additionally, a raft of measures have been granted to municipal councils to aid in the detection and prosecution process with regards to the financial rewards of the drug trade. For example, the *pluk ze* (squeeze 'em) (Criminal Confiscation Measure) law allows for the confiscation of criminal assets, and under the Disclosure of Unusual Transactions (Financial Services) Act and the Identification (Financial Services) Act it grants more powers to investigate monetary irregularities (van der Gouwe et al. 2009).

²⁶ As the authors note, commercialisation '...involves the heightened salience and glamorization (in the youth-cultural sense) that results from widespread, highly visible promotion – in shop signs and advertisements but also in countercultural media ads, postcards, and posters.' (MacCoun and Reuter 2001:260). However, others have contested the credibility of the 'glamorisation hypothesis' due to methodological weaknesses in comparing data across cities and countries (Abraham et al. 2001; Room et al. 2008).

The need to be clearer with how the cannabis *gedoogbeleid* worked and the regulations surrounding coffeeshops was also spurred on by a wider development within Dutch society at the end of the 1990s. Again, within a broader context of heightened fears centred on issues of crime, disorder and immigration amongst others, the rise of Pim Fortuyn signalled a discomfort with 'grey' policy responses such as the *gedoogbeleid*, with greater calls for clearer policies across all policy areas, including drugs policy.

It would appear then that by the turn of the millennium there had been a distinctive change in both the reality of the coffeeshop phenomenon, in terms of producing unwanted effects of nuisance and links to organised criminality, but also a shift in the conceptualisation of cannabis and coffeeshops. In 2003 an interdepartmental policy paper on cannabis was presented which outlined the intentions of the cabinet of how to address cannabis policy. As with previous policy documents there was a reinstatement of the *primary* goal of the policy as being public health-led, coupled alongside the prevention of public nuisance and the combating of drug-related crime.

Moreover, the government advocated a stricter and more criminal justice-oriented approach with integration between different agencies such as the police, prosecution, housing associations and tax authorities (see Tweede Kamer 2006). Thus, the cannabis letter of 2003 set out further measures to reduce and restrict cannabis regulation further, but it again confirms the status of coffeeshops as having a useful social function in Dutch society. The changes were premised upon the ideals of the original policy goals of 1976, emphasising that tolerated outlets should be there to serve local demand, and not to become over-commercialised premises functioning both as a front for organised criminal groups and to rationalise a growing exportation of *nederwiet*²⁷ to surrounding countries.

An important theme running throughout this policy paper is the reaffirmation that local municipalities should be primarily responsible for cannabis policy, to ensure that policy is coherent with local circumstances. In one sense, the state was increasingly positioning itself as a paternalistic 'steerer' of policy, changing national policy based upon concerns which threaten the whole society, with municipalities doing the 'rowing'. The extent to which these powers are utilised however, is premised upon the problems that arise in local settings.

This can be seen with responses to cannabis-related nuisance, whereby there have been numerous attempts to pragmatically deal with problems emanating particularly in the south of country, such as relocating coffeeshops from the inner-city to the borders (e.g. Intraval 2005). However, the success of such experiments has largely been marred by local

²⁷ *Nederwiet* is domestically-produced cannabis from the Netherlands. See also Chapter 6.

and national politics both within the Netherlands and with neighbouring countries²⁸ (MacCoun and Reuter 2001). So whilst policy innovations at a local level are an important and fundamental part of policy evolution with regards to cannabis, it is significant to remember that such experiments are constrained by a number of multi-dimensional forces at local, national and international levels.

Moreover, in 2007 under the Balkenende IV cabinet, municipalities were given the power to close coffeeshops that were within 250m of schools (van der Gouwe et al. 2009). Whilst this is not a mandatory rule, after discussions within the Association of Dutch Municipalities (VNG) most municipalities who have coffeeshops have integrated this policy into existing practices (Bieleman et al. 2012). However, there is again flexibility granted to local municipalities in how this is applied and this again demonstrates the complex relationship between national politics and local implementation and the variation that coexists between these different levels of governance.

Alongside developments which have placed more responsibility and power in the hands of municipalities, there has also been firmer centralised responses. For example, in response to growing evidence of large-scale cultivation (see van Ooyen-Houben 2006; van Ooyen-Houben et al. 2009), a national specialist programme entitled *Taskforce Georganiseerde Hennepteelt* (Taskforce Organised Cannabis Cultivation) was established in 2008. The unanswered problem of the back-door has been met with increasing recourse to criminal justice-led approaches, seemingly chiming with dominant strategies utilised elsewhere.

But despite numerous attempts over the past 20 years to counter the negative effects of cannabis policy, the perception and reality of problems still remained, and this then takes us up to the moment in 2009 when the Balkenende IV government announced a new impetus in drugs policy, with the instalment of an expert commission to examine ways in which to proceed with illicit drugs, and specifically, cannabis. Following the van der Donk Commission, a series of policy changes were announced in 2011 under the Rutte I government which forms the substantive focus of empirical analysis.

Relating the developments of the 2000s back to the culture of control, and it appears as though there has been an acceleration of pressures which have put Dutch cannabis policy under strain. The continued decline of coffeeshops, coupled with stricter enforcement against cultivators and traffickers, has shifted the emphasis away from public health and towards the remit of criminal justice. Placed within the volatile political environment,

²⁸ For example, the relocation of coffeeshops in Venlo was in part due to co-operation from German mayors, but such experiments were unable to be replicated in Maastricht due to opposition from Belgian mayors.

cannabis policy has not been an exception to overall tendencies which have seen tougher, and less tolerant, approaches manifest. This could suggest that the Netherlands is slowly converging towards types of response strategies which attempts to affirm the 'myth', to both internal and perhaps more importantly, external audiences, that they are capable of controlling and managing undesirable social behaviours and conditions. However, as has been consistently stated, whilst the trajectory is one pointing to the decline and potential end of coffeeshops (Garretsen 2010), with their numbers continuing to decline (Bieleman et al. 2012), there is still a pervasive belief amongst policy actors that the coffeeshops are socially beneficial and are a desirable alternative to criminalisation and marginalisation with public health arguments still a driving rationalisation of their existence.

3.5 Summary

Overall, *The Culture of Control* is useful in illuminating the broader 'master patterns' of crime control which could be said to have been felt in various guises and degrees within the field of illicit drugs and cannabis policy in England & Wales and the Netherlands. Changing social, economic and political conditions over the past forty years have produced shared pressures, strains and political anxieties, to which cannabis policy has not been exempt.

As a result, there have notable points of convergence – especially regarding responses to cultivation and supply – but also, there are clear indications that the coffeshop system is under significant pressure and has slowly eroded away by a creeping set of ever-stricter compliance measures which has shifted the focus away from public health and more into the remit of criminal justice and security. And yet, specificities in the development of political responses to cannabis, especially in the Netherlands, contrast in important ways with the experiences felt in England & Wales. This can be very overtly seen with the curious resilience of coffeshops and somewhat official protection of users.

The discussion of this chapter leaves significant questions about the ways policy is constructed, resisted and/or reworked by different actors and agencies. Powerful factors that can be observed already relate to the way in which problems are constructed at particular socio-political moments, the utilisation of research and expertise, and abilities to negotiate and carve policy between central and local authorities. In regards to the latter aspect, the role of local municipalities appears to have played a key role in the development and sustenance of cannabis policy in the Netherlands, an element distinctly lacking from a more centralised form of control in England & Wales.

Set within the confines of this research, this opens up a clear avenue of exploration: to gain an in-depth understanding of the complex processes of policy-making between national and subnational levels and comparatively across these jurisdictions. Next, we move on to outline the methodological approach of the research, to tease out how such queries were robustly examined.

Chapter IV

Methodology

4.1 Introduction

The purpose of this chapter is to reflect on how the research was conducted whilst also linking together the various facets of the research, from research aims and questions, to design, methods and analysis. The central aim of the research was to assess how a culture of control presents itself across two advanced European societies through examining the nature and extent of convergence and divergence in cannabis policy. The research set out to provide an empirically-grounded comparative analysis of the policy ‘process’ in relation to two recent changes to cannabis policy (2009 reclassification from Class C to Class B; 2012/13 amendments to coffeeshop ‘tolerance policy’) at the levels of ‘talk’ and ‘decisions’ in two national contexts (England & Wales and the Netherlands) and in two subnational case sites (Cardiff/Wales and Utrecht).

4.2 Research Aim, Objectives and Questions

To assess how a culture of control unfolds across England & Wales and the Netherlands through an examination of convergence and divergence in cannabis policy

The preceding chapter demonstrated the usefulness of using a ‘Garlandian’ framework to understand developments in the way in which both England & Wales and the Netherlands have shifted in their approach to crime and drugs control. Certainly, recent developments in cannabis policy in both jurisdictions appear to suggest a toughening approach towards cannabis which may indicate convergence towards non-adaptive strategies of control.

However, as outlined in the introductory chapter, despite the clear usefulness of such meta-narratives for describing and explaining broader currents in the criminal justice sphere, a central presupposition is that such theories have a tendency to conceal the multifaceted and variegated nature of responses across differing national and local levels of decision-making (Edwards and Hughes 2005). As Garland (2001:vii) himself openly forewarns, ‘[i]n our attempts to make sense of social life, there is an unavoidable tension between broad generalization and the specification of empirical particulars’. This suggests the possibility that if countries appear to exhibit signals of punitivism, there is the potential for policy to be

reworked and resisted in a way which counters its 'determinedly dystopic' properties (Zedner 2002). Thus, there is a need to empirically clarify how a culture of control unfolds through examining the nature and extent of convergence and divergence across and within different jurisdictions. Garland himself (2001:vii-viii) further confirms this research deficit: 'Sweeping accounts of the big picture can be adjusted and revised by more focused case studies that add empirical specificity and local detail... [they] should be in a better position to confirm, disconfirm, or otherwise revise these findings'. So arising out of these considerations, and the preceding two chapters, are two central propositions: that despite clear continuing points of difference, it is both possible and expected to observe *some degree of convergence inter-nationally*; and that equally, we can expect *some degree of divergence intra-nationally* between national and subnational levels within each jurisdiction.

In order to test and explore such propositions, the research examined two specific policy changes: the reclassification from Class C to Class B in 2009 in England & Wales; and the amendments to the public prosecutor's guidelines for coffeeshops (*gedoogbeleid*) that occurred in 2012/2013 in the Netherlands. The study sought to answer four key research questions:

RQ1: How did the policy responses come into existence?

RQ2: To what extent is there intra-national convergence/divergence between national and subnational levels of governance?

RQ3: To what extent is there inter-national convergence/divergence in the responses to cannabis?

RQ4: What factors and mechanisms conditioned how the policy responses unfolded?

The analytic focus of the study revolves around two interlinking facets regarding policy, that of policy 'levels' and policy 'process'. In the first instance, there is recognition that policy can be dissected into distinct constitutive elements of policy as 'talk', 'decisions' and 'action'²⁹ (Brunsson 1989; Pollitt 2001). Given the scale and scope of the project, the thesis is primarily

²⁹ Here it is worth noting that whilst there is an appreciation of 'action' in the broader sociological sense in that any human action projects meaning and requires interpretation, in relation to policy this is taken to be the implementation of a given policy as opposed to the actions of civil servants drafting policy documents, or politicians debating in parliament etc.

interested in convergence and divergence in policy responses to cannabis control at the levels of talk and decisions across national and subnational levels of governance.

However, the main organising framework for the thesis is centred on an inter-, and intra-, national comparison of the policy 'process'; of how and why these policy changes came into being and were translated into the subnational sphere (Jones and Newburn 2007; Kingdon 1995). Thus, the research aimed to generate knowledge on the nature and extent of convergence and divergence, and under what conditions policy responses are resisted and reworked across two national and local 'geo-historical' contexts (Edwards and Hughes 2005).

4.3 Research Strategy

4.3.1 Towards a Critical Realist Framework in Comparative Research

Before going on to discuss the particular qualities of the research design, I shall first account for the overall research strategy broadly guiding the study which draws upon ideas associated with critical realism.

In carving out an appropriate research strategy and design for the comparative research, it was important to recognise the pitfalls of the traditionally constructed dichotomy between searching for generality and specificity, or 'nomothetic' and 'idiographic' explanations, which have tendencies to root themselves to the epistemological positions of positivism and interpretivism respectively. However, these orientations and approaches experience distinctive problems³⁰ specifically in relation to comparative case study research. On the one hand, 'nomothetic' explanations '*...necessarily obviate contextual understanding of the uneven, diverse and therefore non-general qualities of social objects*' (Edwards and Hughes 2005:348, emphasis in original), and 'idiographic' explanations are so contextually

³⁰ Moreover, these issues are intimately connected to methodological approaches and how best to capture social phenomenon. Broadly, the problem with positivism is that by not recognising the socially and politically constructed nature of criminological research, such research falsely assumes that crime and its properties can be defined unproblematically and measured through particular types of methods (see Sherman et al. 1998; Farrington and Petrosino 2001; Sherman 2009). Best knowledge is purported to be generated through methodological rigour, to remove subjective bias through emulation of natural scientific methods. However, as Hope (2009) and Tilley (2009) point to, an illusion is created about the social world which fails to take account of the methodological framing of social phenomenon. We therefore have to recognise how methods such as the RCT are themselves socially constructed as a method of knowing and question the conditions of its existence. On the other hand, however, the problem with an interpretivist approach is that treating everything as context-dependent and 'random' (in the sense of not being able to draw general conclusions) avoids issues of structural relations. Thus, the notion of cross-national research is inherently problematic, with researchers faced with the impossible task of attempting to find a common referent which gravitates beyond the unique tendencies of specific cultures and individuals in constructing reality (Sheptycki 2005).

relative that comparisons are inevitably limited to the specific qualities of a given location or culture.

In order to move beyond these static boundaries, the study broadly aligned itself with a critical realist position which attempts to understand the ‘diverse determinations’ of social phenomena (Marx 1857/1973). This is made possible through the acceptance of two key facets: first, that there is an objective ‘intransitive’ reality of social structures, relations and phenomenon; and second, that we must take account of the ‘open systems’ of the social world in which the landscape is not only constantly shifting and producing variegated conditions of human existence, but so too are our experiences and conceptualisations of it (Sayer 2000; Bhaskar 1978). In this latter sense, a critical realist position does not claim objectivity in the representations it constructs, but rather that they are ‘second best’ interpretations of extremely complex realities.

Instead of focussing on the search for generality or specificity, the task of this research was to illuminate the messy contingencies of policy development emanating in particular geo-historical contexts that exist within broadly similar social, economic and political structural shifts (Sayer 2000; Edwards and Hughes 2005). This was supported through identifying factors and mechanisms which influence how policy is understood and performed by differing actors and agencies within particular structural frames of acting.

Demonstrating this, previous chapters (2 and 3) argued that both countries have experienced similar broad forces associated with a transition to late-modernity (such as migration and technological change which have facilitated new ‘threats’ to state sovereignty in cannabis control) which have contributed towards a more expressive and politicised approach to cannabis policy. However, in the Netherlands such tendencies hold more potential to become ‘mellowed out’ (or even be more punitive) at a subnational level due to the combinations of political representation found at the municipal level and greater *abilities* to shape cannabis policy than is found in England & Wales. This glimpse at a core research finding also demonstrates the value of moving beyond state-centric research, to go beneath the surface to examine how issues are contested and resolved between competing actors at national *and* subnational levels of governance.

4.3.2 An ‘Adaptive’ Approach to the Theory-Method Relationship

Following the notions set out by Bottoms (2008) that engagement with both theory and the real world is inevitable and necessary, Layder’s (1993:203) development of ‘adaptive theory’

is useful for this purpose, which sees '...general theories as potentially open, revisable and partial discourses rather than ones which are perfected, closed and hermetically sealed'.

Adaptive theory provides a middle ground between inductivism and deductivism and can be considered as 'middle-range' in that '...its primary focus is on a set of activities (or events) and the social relations and organization which constitute its immediate environment' (Layder 1998:148). In this sense, theoretical notions can be treated as a 'scaffold' which is open to change and adaption based upon the generation of new data. Within this, the nature of adaptive theory is variable, and as such, includes concepts, conceptual clusters/networks/frameworks, and typological models. Each grouping reflects the extent of theorising, with concepts being used as the essential building blocks emanating from coded data or borrowed from existing theoretical frameworks.

Relating these ideas to this study, Garland's culture of control is treated as a master theoretical scaffold. A key component of the culture of control thesis is that the process of making policy has become based less upon expert liberal 'platonic guardians', and more upon a knee-jerk reactionary style emanating from the 'electoral anxieties' linked to the purported growth of populist punitivism (Garland 2001; Loader 2006). Although the creation of policy has received relatively little attention within criminology, with preference usually to look at the *effects* of legislation, it is an area which is growing in importance to understand how and why policy takes the direction it does (Jones and Newburn 2007). Given the relative lack of criminological precedents, there has been a tendency to borrow conceptual frameworks from political science. Rather than taking the substantive manifestations of policy at its face value, Jones and Newburn (2002:180) set out a distinction between policy 'process' and 'levels':

'First, it is important to emphasise that policy making is a process involving a number of analytically distinct elements. Second, policy can be considered substantively at a number of different 'levels'... [t]hese may range from ideas and rhetoric on the one hand to more concrete manifestations such as instruments and practices on the other.'

To empirically and critically build upon Garland's grand narrative, the research utilised two 'middle-range' analytical frameworks which took into account both of these aspects. The empirical groundwork is based upon the policy levels of talk and decisions, whilst Kingdon's (1995) Multiple Streams model of the policy process is used as an organising framework of the analysis to understand how policy was both made and translated across and within nation states. By doing so, it was possible to decipher the nature and extent to which both jurisdictions (nationally) have converged around non-adaptive strategies of crime control. The findings critically built upon Garland's culture of control theory through the indicative

identification of factors and mechanisms which facilitated, mediated, or resisted such tendencies between this level and the subnational level. In terms of building upon, and raising further questions, about the two analytical models, Chapter 8 further discusses this element and a number of issues that came to the fore during the research. Next, I discuss in more depth these two analytical frameworks.

4.3.3 Analytical Frameworks: Policy Levels and Process

Policy Levels: Talk, Decisions, and Action

Often in criminology there are assumptions held about what policy is, and this unhelpfully lumps together actors, agencies, discourses and social behaviour into one category. However, policy can be demarcated in various ways with a main difference posited between the ideas and substance, or politics and administration, of a policy (Brunsson 1989; Jones and Newburn 2002; 2007; Colebatch 2002). A useful framework for taking forward this divide has been developed by Brunsson (1989), and later Pollitt (2001), who suggest that policy can be distinguished in terms of policy as talk (rhetoric and symbolism), policy as decisions (concrete manifestations of policy such as legislation), and policy as action (the behaviour of those implementing policy 'on the ground').

When considering what is operationally meant by these different policy levels, it is worth providing some clarity. In some ways, empowered actors involved in all realms of policy are capable of producing policy talk, decisions, and action. Taking a literal definition of these terms, and we can observe that local practitioners are just as able to produce policy talk as much as a politician. For example, within the local sphere of governance in the Netherlands, council members are capable of decision-making in crafting local cannabis policy and there was certainly strong evidence of counter-talk in opposing national measures. Moreover, the concept of 'action' could also be taken at any level of governance, be that local, national or international. For example, action concerning the 2009 reclassification at a national level could consider the actions of national police services, such as the now defunct Serious and Organised Crime Agency.

Whilst the inclusion of all three of these components is a desirable task, given practical limitations in conducting research it is always necessary to bracket off lines of inquiry to ensure a rigorous study within finite time and resources. The focus on policy talk and decisions was justified on the basis that the primary focus of the thesis was an examination of the policy *making* process, to test and examine how the features of a general

culture of control, and particularly non-adaptive strategies, have been felt, mitigated, or resisted across different national and subnational settings in the ways in which policy is made and translated. An in-depth examination of the policy process is fairly neglected in both Garland's analysis and in wider accounts of drugs/cannabis policy which have tended to look at the effects of policy on issues such as drug prices, availability, and contact with the criminal justice system (e.g. May et al. 2007; MacCoun and Reuter 2001; WODC 2013; Shiner 2015).

Whilst acknowledging that it would have been desirable to also empirically consider the implementation of cannabis policy, for the primary intentions of this study, in highlighting policy convergence and divergence, it sufficed to concentrate on the policy talk and decisions at a national and subnational level through the organising framework of the policy process. In this sense, this does not serve to either simply accept or reject Garland's thesis, but the empirical focus was premised on being able to provide an in-depth perspective of how strategies of control are performed in variegated fashions. As will be demonstrated, this opens up a raft of identified factors which could be adopted in further research on policy action.

The concentration on talk and decisions requires an important distinction to be made. The former is quite a broad concept, encompassing the ways in which social actors discuss and conceptualise policy. But to provide a more workable definition, the focus here is on the perspectives of those involved in the policy-making process, and includes political rhetoric and symbolism. This is an important component in relation to the policy process, in the sense of constructing cannabis as a policy problem and articulating preferred policy alternatives. For example, in the Netherlands, at a national level the talk was partially focussed on the issue of nuisance caused by foreigners. However, at a subnational level there was counter-talk which rejected this as a significant problem in the specific municipality.

This contrasts with policy decisions which are taken as the 'concrete manifestations' of policy. Following Tregidga's (2011:55, emphasis in original) distinction, this can further be clarified as '*...tangible mechanisms of enforcement which necessitate some form of organisational and/or institutional compliance*'. In the context of this study, this principally refers to the legislative changes of the 2009 reclassification in England & Wales, and the amendments to the public prosecutor's guidelines in the Netherlands which formed the basis of comparison. Both decisions involved the granting of further powers to law enforcement agencies which were bestowed into existing laws (Misuse of Drugs Act 1971; Opium Act 1976).

Whilst the framework of talk, decisions, and action is not a perfect hermetically-sealed device, and is open to interpretation and use in varying ways, it does provide a useful

analytic purpose in illuminating the existence of policy in a number of distinct ways, not only between these forms of policy at the same level of governance, but also between national and subnational tiers. Again, this is consistent with the broader critical realist approach, to generate empirical data on the multifaceted and contested shapes of policy that exists between different types of actors and across varying spatial and institutional contexts.

The importance of policy level demarcation is that convergence between these different levels does not always exist uniformly, especially across different tiers of governance. In assessing the usefulness and explanatory power of macro theories such as the culture of control in explaining cannabis control, taking a *prima facie* perspective that surface changes in both England & Wales and the Netherlands represent a perpetuation of the punitive turn may only be capturing a partial element of policy change. As research in other areas has documented, the role of practitioners and institutions in resisting this punitive turn is very important (Cheliotis 2006; Fergusson 2007), thus creating, in Brunsson's (1989) terms, 'hypocrisy' between tough rhetoric and symbolism espoused by politicians, and the more pragmatic decisions of practitioners.

Policy Process

The substantive organising focus of the research is premised upon the policy 'process'. It is acknowledged that a plethora of policy-making models exist in the literature which are relevant to drugs policy (Ritter and Bammer 2010; Monaghan 2011), including, 'incrementalism' (Lindblom 1959; 1979); 'technical/rational' (Easton 1965; Bardach 2005); 'enlightenment' (Weiss 1977); 'evolutionary' (Stevens 2007); and the 'advocacy coalition framework' (Sabatier 1988).

However, in this research a different analytical device was used to try and capture the processes and events by which the two policy movements³¹ came into being, that of Kingdon's (1995) Multiple Streams model. The selection of this model was based upon an acceptance that the policy process is complex and messy, and whilst approaches, such as the incremental and technical/rational, are useful in identifying a set of stages, these often fail to take into account the more ad hoc features of policy-making. Moreover, whilst the advocacy

³¹ An issue worth addressing from an analytic point of view is that there are two clear policy 'moments' that are being analysed in the Netherlands (changes under Rutte I and Rutte II due to trials and planned introduction dates) but only one in England & Wales. However, it is important to treat changes in both jurisdictions not simply as 'moments' that are static in time, but rather as policy 'movements' and opportunities in which policy is made. In this way, the changes undertaken by Rutte II were heavily linked to the problems and solutions articulated in Rutte I and as such should be considered within the same 'movement'.

coalition framework is a useful framework in establishing types of policy communities and the values which drive forward policy agendas (e.g. Monaghan 2011), there was a pragmatic element involved in choosing Kingdon in that the study was premised on two specific changes at particular moments in time, rather than the optimal period of observation of a ten year span which is suggested with the advocacy coalition framework (Sabatier 1988). Moreover, set within the context of testing and utilising the culture of control, which suggests that policy making has become less rational and more prone to policy swings and incident-driven agendas, Kingdon's framework provided an apt device in which to represent the dynamic and sometimes unpredictable elements of the policy process.

However, this is not to disregard the particular features of these models as they all contain useful components of the policy process and this is usefully captured with the Multiple Streams model. For example, the role of different sets of 'policy entrepreneurs', which links with the notion of 'advocacy coalitions', in putting problems on to the agenda and resisting change was seen to be important. This element requires further clarity. It is argued throughout the thesis that policy development and change was partly triggered by the influence of two main oppositional positions on cannabis policy. There is of course a variety of positions and perspectives on cannabis policy which should be seen on a constantly shifting and mutating scale rather than a simplistic dichotomy. Such viewpoints emanate from a variety of different philosophies and values, such as liberalism, libertarianism, neoliberalism, conservatism, neoconservatism, social democracy etc.

However, the broad polarisation of perspectives follows the findings across both jurisdictions that debates on cannabis policy were largely demarcated across two positions: those who supported the measures which strengthened current positions through the deployment of repressive measures; and those who positioned themselves against the policy changes.

Returning to the Multiple Streams model, Kingdon suggests that there at least four processes involved in policy-making: agenda setting; specification of alternatives from which a choice is to be made; an authoritative choice among those specified alternatives; and implementation of the decision. Following Kingdon's approach, this research focuses on the first three processes, on how the idea of reclassifying cannabis and the amendments to the prosecutor's guidelines became accepted and advocated policy responses to a set of perceived problems within a politically feasible landscape.

Kingdon argues that policy change is most probable when three distinct 'streams' come together in critical 'windows of opportunity'. First, is recognition of a problem to which a response is required. The construction of what is considered a problem is innately

important, as social phenomena in themselves are not necessarily problematic: 'conditions become defined as problems when we come to believe that we should do something about them. Problems are not simply the conditions or external events themselves; there is also a perceptual, interpretative element' (Kingdon 1995:109-110). Second, there is the formation and refining of policy proposals. Such ideas often exist independently of recognised problems, floating around in a 'primeval soup'. When policy proposals meet a set of criteria, such as fitting with dominant values and are technically feasible, then the list of policy alternatives to recognised problems is narrowed down for selection. Finally, the 'political' stream consists of '...swings of national mood, vagaries of public opinion, election results, changes of administration, shifts in partisan or ideological distributions in [government], and interest group pressure campaigns' (Kingdon 1995:87). When the political dimension combines with the problem and policy streams, the possibilities for policy change are greatly enhanced. Further detail on how this framework was adapted for data analysis is discussed in section 4.6.

Although this model appears to be an apt device for capturing the processes existing at the level of policy change (i.e. national), it is important to clarify how the subnational level was incorporated into this framework for analysis. In essence, the focus was on how policy problems were perceived and constructed at a subnational level; how the measures enacted at a national level were supported, adapted or resisted in local policy arrangements; and the political factors which contributed towards this process. Importantly, this allowed the research to identify structural and cultural factors and mechanisms operating at different levels of governance which led to both the genesis of policy and translation into the subnational sphere.

4.4 Research Design

4.4.1 A Comparative Qualitative Case Study

The comparative case study was chosen as a suitable research design through which to provide a dynamic examination of convergence and divergence in contemporary responses to cannabis. It is a hybrid mix of different elements to reflect the need to compare both across national contexts and within them (see Figure 4.1). There are many types of comparative designs to suit the needs of research projects, and given the nature of the study, the research took the form of a 'focused comparison' and a 'most different' technique which aimed to examine the applicability of theory in a range of contrasting settings (Pakes 2010). The case

study element is useful in order to ‘...uncover multiple layers of meaning and subtlety’ (Heidensohn 2008:208) in how and why particular policy responses developed as they did (Yin 2014). As Schramm’s (1971, in Yin 2014:15) definition suggests, ‘...the central tendency among all types of case study, is that it tries to illuminate a decision or set of decisions: why they were taken, how they were implemented, and with what result’. As noted, given the dual nature of the research in both comparing across and within jurisdictions, the design is a ‘multiple-embedded case study’ (Yin 2014).

Thus, through building an empirical representation of how policy was both created and translated at different levels in specific localities in different countries, it is possible to clarify and build upon Garland’s culture of control thesis to take account of mechanisms which, for example, support or resist a shift towards populist punitivism. The purpose of the study then is not to generalise or be representative of a given population, but instead to generalise back to theories of punitive and adaptive cultures of control. This resonates with Stenson and Edwards’ (2004:219) suggestion that there is a ‘...need for further accounts of the uneven ways in which political rationalities and governmental technologies are configured in different localities by competing coalitions of actors’.

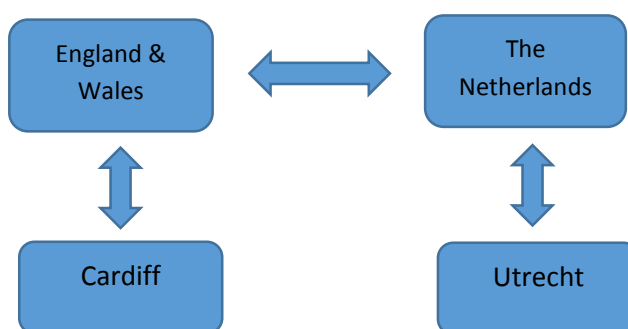


Figure 4.1 Comparative Case Study Design

Another important dimension of the research design is that because it is focussed on the relationship between policies created at a national level and translated (back) to a local level, there is a potential danger of obviating governance above the state as a potential catalyst for change and development in cannabis control. Whilst it would be favourable to have a truly multi-level governance study, given the scope and nature of the project there inevitably has to be a cut-off line. That said, European/international influence was an important, and a somewhat fundamental, component of the policy process (in the sense of ‘technical feasibility’ and international pressure). As such, participants’ reflections on this sphere were

considered as part of the analysis as an influential factor upon national and subnational decision-making.

4.4.2 Comparative Research: The Researcher Role and Issues of Interpretation and 'Translation'

In conducting comparative research there are several aspects that need to be accounted for. Most pressing is how researchers attempt to understand and interpret social structures, agency and meaning in a foreign country. Of course, such issues are not specific to comparative research, but are particularly enhanced by cross-national research.

In terms of how one approaches the field of study in comparative research, a primary concern is how to define and measure crime and its control and the potential danger of assuming likeness through concepts used across different countries (Lacey and Zedner 1995; 1998). Similarly, Cain (2000) draws attention to two common dangers in comparative research; that of 'occidentalism', of assuming a different society is necessarily like the host one, or that of 'orientalism', of assuming that they are fundamentally different.

This can be further obscured through what Zedner (1995:13) calls 'criminological tourism': '[t]he danger is all the greater if one travels abroad with the same misty-eyed vision of the traveller who sees only the picturesque and the good'. This relates to the 'role' of the researcher (Heidensohn 2006; 2008), with some arguing that to truly understand a foreign culture it is necessary to embed oneself through 'living there' (Nelken 2007). A danger is that by simply 'researching there' there is the potential for misunderstanding and the over-reliance on certain actors, as Franke's (1990) critique of Downes (1988) illuminated.

Moreover, these issues are compounded because researchers have to 'translate' conceptual tools and frameworks to a different country. Where the country uses a different language this presents significant issues of understanding, and consequentially, explanation (Pakes 2010). Melossi (2004:80) argues that '...the problem of comparison is first and foremost a problem of translation. 'Translation', however, strictly speaking is impossible. Conversation between different cultures is possible, but not translation from one to another'. But Heidensohn (2008) takes a more positive view, arguing that translation is at least partially possible, but it is the interpretation which is laden with danger.

Many of the potential issues outlined above were mitigated due to a range of techniques employed in the research. This is not to say that the research was in any way perfect and un-criticisable, but that measures were taken to ensure that a rigorous study was conducted and meaningful comparisons made within available timescales and resources.

In terms of what role was adopted, the most feasible was that of 'researching there'. Consequentially, the research involved two substantive trips to the Netherlands for three months and one month respectively and this served a number of purposes. First, it allowed for initial contacts to be made in a country which was not wholly familiar to the researcher. Second, by punctuating the trips into multiple visits it gave greater flexibility to the project as a whole allowing for multi-tasking across a range of research activities. Finally, an advantage to this style of conducting research is that of corroboration. As trips abroad complemented periods of research 'at home', data fed off each other to produce more focussed lines of inquiry on trips. Moreover, with a significant amount of time between each research trip (5 months), this gave the opportunity to reflect on the emerging themes of the data before returning for further fieldwork with both new participants and for several follow-up interviews. The second research trip also occurred immediately following a paper presented at the European Society of Criminology conference in which there was the opportunity to present with a panel (and audience) of Dutch academics, which provided further feedback and positive affirmation of the emerging analysis.

Whilst the language issue may have presented obvious difficulties, it was not seen to be a salient issue because of the wide-spread proficiency of English as a second language in the Netherlands. However, where encountering the Dutch language was unavoidable, as with the analysis of certain key documents, computer software was utilised to provide a broad translation of the main themes. These were then cross-referenced to other sources to check for authenticity, and aided by Dutch contacts to certify and clarify translations. In addressing issues relating to the use of culturally-specific concepts, the research had to take account of concepts constructed in the Netherlands, as they may represent different ways of framing the cannabis problem, thus having implications for its governance. Most obviously, the whole construction of *gedoogbeleid* is a concept loaded with meaning and history which is alien to those outside of the Netherlands, but significant attempts were made in understanding such concepts, both through a thorough reading of the literature, and through the interpretation and cross-corroboration of accounts given by participants.

The notion of corroboration was a fundamental aspect of the research, to pull together various actors to build a representation of the objects of social inquiry. As suggested earlier with regards to Downes' work, Franke (1990) critiqued Downes on the basis of relying upon certain coalitions of actors which constructed a particular picture of the Dutch criminal justice system which perhaps did not fully reflect the Dutch response to crime. Thus, in 'touching base' in another country, it was necessary to reflect critically on who the research is conducted with, and to attempt to gain 'meaningful access' across a range of participants

(Pakes 2010; Leishman 1999). This is further explored below in the section on ‘sampling’. But overall, the amount and quality of participants, coupled with cross-referencing to documentary sources, allowed the research to effectively off-set potential limitations of misunderstanding and misrepresentation.

4.4.3 Case Selection

The strategy behind selecting case sites was guided by the overall aim of critically assessing the extent of convergence and divergence around non-adaptive strategies of cannabis control. In this sense it was fruitful to include cases which both exemplified, and had the potential to resist, punitive tendencies. Following Pakes’ (2010) taxonomy of different ‘cases’, the Netherlands’ can be seen as a ‘deviant’ case, or in Yin’s (2014) terms, a ‘critical’ case. Much in the same spirit as Downes’ (1988) classic study, the Netherlands has followed an alternative path in responding to cannabis whilst seemingly having lower overall rates of use than England and Wales (see Room et al. 2008) – a broadly recognised goal of drugs policy. But with increasing tendencies across Europe and in the Netherlands to employ the punitive turn and culture of control discourse to describe developments in the landscape of crime control, this warranted an empirical investigation to shed light on the nature and extent to which they have experienced a punitive shift in cannabis control as evidenced in recent shifts in policy at the national level. England & Wales on the other hand can be seen as an ‘exemplary’ case, having been used as one of the cases in Garland’s own work, and again the recent changes at the national level seem to indicate the applicability of the culture of control in explaining developments.

However, this is not to suggest that this implicitly suggests a ‘top-down’ approach in the formation of policy, and it is important to recognise the opportunities for policies to travel ‘upwards’. Indeed it is possible for policies to travel between the local without surfacing at the national, or for practices at a local level to turn into national policy (Stenson and Edwards 2004). This aspect is very pertinent in cannabis policy across England & Wales and the Netherlands. Much of the Dutch approach is based initially upon local practices before being made national policy (e.g. the *gedoogbeleid*), whilst in England & Wales there appears to be a much firmer centralised control from the Home Office. So, to take account of such factors situated at a subnational level is a component that is necessary in understanding the nature of the policy process.

As such, the research chose two sites of local governance (municipality/local authority area) within both national jurisdictions: Utrecht from the Netherlands, and Cardiff

from England & Wales. Similar to the selection process for the national comparison, these case sites were chosen on the basis of being potentially 'deviant' cases in which to test and clarify the culture of control thesis. The municipality of Utrecht, which at the time of writing had 13 operating coffeeshops and is located relatively centrally in the country, poses interesting questions with regards to the research agenda. One of the main justifications for the introduction of new stricter coffeeshop measures was as a means to remove nuisance created by drug tourism. As Utrecht is not located near where such activity is likely to occur, it begged the question of how these new regulations were accepted or resisted by local policy administrators. Furthermore, Utrecht has a strong liberal (left-wing) political tradition, and as such served as an interesting case to examine the relationship between a firm left-wing municipal council, and the more right-wing national cabinet of Rutte I where the initial measures were introduced.

In comparing cannabis policy between national and subnational levels of governance, it is necessary to recognise the often chaotic and 'messy' realities of condensing the social world into two simplistic heuristic categories. The analysis becomes particularly tricky in relation to the United Kingdom when considering the fact that its constitutive members have varying degrees of devolved powers. The coupling of England & Wales as a 'national' polity (and omitting Scotland and Northern Ireland) has been justified on the basis of these jurisdictions sharing the same legal system and are often grouped together in analyses of criminal justice processes (such as Downes' seminal study).

An exploration of how cannabis policy unfolds in other partially devolved polities within the United Kingdom would be an interesting and worthy endeavour, especially given that Scotland has a separate criminal justice system and Northern Ireland has distinct powers in some areas such as policing. In relation to the changes in cannabis classification over the past decade, although both legislative changes also applied in Northern Ireland and Scotland, there were less formal changes to out-of-court policing arrangements. For example, in Northern Ireland, a recorded possession offence leads to a reporting to the Public Prosecution Service, and in Scotland, it is referred to the Procurator Fiscal. In both cases following a police report, these bodies determine whether the offence should lead to a caution or prosecution (Stevenson 2012).

Bearing in mind that the primary purpose of the research was to assess how a culture of control unfolds across and within different jurisdictions, it was necessary to draw some boundaries of scope. A specific focus on England and Wales served this function well, but leaves a space for further research to explore convergence and divergence amongst UK polities, which is an area lacking in empirical research.

Although criminal justice matters remain a non-devolved aspect of Welsh governance, meaning that the changes in law and to policing guidelines applied equally across Wales, other major aspects pertaining to cannabis and 'substance misuse' have been devolved since the Government of Wales Act 2006. These include health, education, social welfare, housing and local government, and since a referendum in 2011, the Welsh Government has the capability of full legislative powers in these areas. The Welsh emphasis on substance misuse as primarily an issue of public health and not criminal justice suggests that at least at the level of talk and decisions, there lies potential for policy to be reworked through more adaptive strategies of control.

Moreover, it has also been noted that Wales attempts to construct nation-building around more socially democratic values than in England (Drakeford and Gregory 2011; Mooney and Williams 2006; Rees 2005); again, serving as a critical site of potential resistance against more punitive measures. As such, Cardiff offered an interesting case site for the research as it is the capital of Wales and is a centre for political activity. As such, to understand the role of the subnational level in relation to the change in classification, we have to recognise that Wales is a site of policy-making as well as the specific local authority case site, and these are grouped together under the analysis of the subnational policy streams. Whilst this is not a perfect fit, such a definition serves the purpose of exploring policy convergence and divergence from the 'national' level of criminal justice policy-making.

A final element of case selection that was considered was the particular policy developments which were subject to empirical examination. Arguably, it may have been preferable to include a wider range of policy changes, either within the same area spread over a longer period of time, or several differing policy movements across the criminal justice sphere (exemplified in the work of Jones and Newburn 2007). However, there was a conscious decision to narrow the line of inquiry to the two specific policy movements in cannabis policy in England & Wales and the Netherlands.

This was done for several reasons: first, that drugs, and cannabis, policy was a heavily implicated but under-examined topic in *The Culture of Control* (O'Malley 2002). Second, that a focus on two specific policy movements facilitated a more rigorous and in-depth empirical analysis to be possible, thereby allowing the research to cover in much greater depth the processes of policy change and the ways in which jurisdictions adapted to '...the new risks, insecurities and opportunities' apparent in cannabis policy (Garland 2004:179). A broader scope of empirical inquiry would have potentially led to the thinning of analysis, and so depth was chosen over breadth in order to more robustly account for the specificities surrounding the policy changes. The purpose then, was not to abstract to other policy movements, but to

critically examine the possibilities and constraints in how cultures of control manifest themselves. However, this is not to discount the broader picture, which has been covered in some depth in the preceding chapter and alerts us to the broader trajectories of cannabis control. Third, both changes indicated the appearance of non-adaptive strategies of control at a surface level (as they both introduced stricter measures of control) thus serving as 'exemplary' cases to test and apply the culture of control thesis. Finally, being the most up-to-date policy movements, it allowed the research to build upon existing analyses which had not considered these changes (e.g. Downes and van Swaaningen 2007; Shiner 2015).

Such a narrow focus does not serve to reduce the importance of the findings, but sufficed in fulfilling the primary purpose of examining processes of policy-making and how different geopolitical spaces manage policy change. The findings can therefore be used to further test, explore and critique how a range of policy movements are experienced across different governable places.

4.5 Research Methods

Following the research strategy outlined above, data generation methods were selected on their suitability to the research questions and the nature of the object studied. This principally involved conducting a series of elite semi-structured interviews with 62 stakeholders in the cannabis policy network and an analysis of key policy documents. Thus, the interviews and documents provided valuable data about the talk and decisions of national and subnational agenda setting in the sense of how cannabis was problematised, policy alternatives selected (or resisted), and political negotiations resolved.

4.5.1 Elite Semi-Structured Interviews

In researching those involved in the creation and management of policy, there are a number of considerations worth paying attention to. Individuals involved in such endeavours have varied and privileged positions in terms of relations of power which presents unique challenges in researching these types of social actors. In defining what 'elites' are, Lilleker (2003:207) notes that '[e]lites can be loosely defined as those with close proximity to power or policymaking'. However, it is also important to recognise the varying degrees of power within elites, as there are '...important intersections among different types of elites, as well as between elites and other groups' (Odendahl and Shaw 2002). The recognition of different

types of elites is an important one as the research also incorporated individuals who, although not directly in positions of power relating to the policy changes, could still be considered elite by virtue of their knowledge and contribution to policy debates. Most of the participants involved in the study fall into this broad definition, but it is also pertinent to note individuals who, whilst still holding positions of power (e.g. police officers), are distinctly different to other participants (e.g. politicians).

There are three important stages in conducting elite interviews: sampling and access, the 'doing' of the interview, and the writing-up of the data. Each stage entails a number of pitfalls and considerations which will each briefly be considered before outlining how the research was actually conducted.

Sampling and Access

First, in terms of 'getting in the door', the very nature of elite respondents makes it difficult to gain access for an interview. Often those in positions of power have busy schedules and may be sceptical of researchers (Morris 2009). Furthermore, because there are a select number of elites in a given policy network, failure to access the key players could result in weaker data.

The selection and invitation process for participants was based upon a logical strategy of purposive and reputational sampling followed by a process of snowballing. First, organisations and individuals from relevant 'policy networks' that were either directly involved or informed about the recent legislative changes in both jurisdictions at both national and local levels were identified based upon the literature (Cope 2001). The sampling strategy attempted to identify and include those representing a wide spectrum of perspectives, including those who supported and opposed the policy measures.

Individuals were then sent formal emails or letters inviting their participation in the research. However, this is not to suggest a clean and neat process, because as Odendahl and Shaw (2002:305) suggest, such sampling techniques involve '...a mixture of ingenuity, social skills, contacts, careful negotiation, and circumstance'. In addition to formally identified individuals, participants were accessed through personal contacts as well as established academic and policy networks.

Overall, a fairly balanced mix of participant types was attained in both countries. At a national level³², this included acting and former politicians, civil servants from key

³² A distinction is made here between participants considered to exist at either a 'national' or 'subnational' level. The distinction is premised on the nature of participants in the sense of being

departments³³, policy advocates from third-sector organisations and ‘think tanks’, expert committee members (from van der Donk; Garretsen; ACMD), and academics from the broader academic community who are relevant specialists in the drugs policy field. In total, there were 18 participants from England & Wales, and 24 from the Netherlands at this level.

At a subnational level, participants came from various backgrounds which reflected the differentiated nature of ‘doing’ cannabis policy. In the Netherlands, this included representation from the police, public prosecutor’s office, local politicians and alderman, and a member of the social cannabis club organisation. In a similar fashion, in the Welsh setting, there were representatives from the Welsh Government both as political figures and civil servants, as well as police officers, health representatives from the council and a third-sector drugs practitioner. In total, there were 9 participants from England & Wales, and 11 from the Netherlands (see Table 4.1 in Appendix for summary of participants). It is worth adding that although only current or most recent former position is reported, participants often had many years of experience spanning multiple organisations and sectors. In terms of how participants were represented in the writing-up, an anonymising participant key was used to indicate key attributes of their position (see Table 4.2a-c in Appendix).

The exact spread of participant ‘positions’ is unclear due to the framing of the research around policy streams rather than advocacy coalitions which sometimes generated a lack of knowledge on the individual belief systems of participants. But from the numbers of those whose perspective was discernible, it was clear that individuals spanning a range of positions were represented in the research.

Whilst the technique of snowballing attracts similar criticism to how Downes conducted his study on the Netherlands, with insider participants potentially referring to like-minded contacts, the more purposeful aspect of the sampling strategy to attract competing interests and actors served to off-set this. Moreover, the range of participants, working both inside governmental organisations and operating outside of it from different perspectives, helped to challenge and authenticate the various social constructions of participants. Interestingly, it was felt that this had been achieved more so in the Netherlands than in England & Wales, where access to governmental actors and prohibition advocates proved more difficult which is perhaps indicative of the closed nature of the debate in England & Wales.

actors who primarily contribute towards policy discourses either at the level of England & Wales (national) or Wales and Cardiff (subnational).

³³ In the Netherlands, this included the Ministry of Health, Welfare and Sport; the Ministry of Security and Justice; and the Public Prosecutor’s Office. In England & Wales this included the Home Office.

However, being an 'outsider' in the Netherlands also seemed to be a distinct advantage, a lesser threat from a naïve foreigner wishing to learn about Dutch cannabis policy. This was epitomised by one particularly memorable experience where I was taken to a coffeeshop by a senior civil servant after the interview had concluded; such an event seems barely comprehensible in the UK. Another indication of such a difference was the length of time afforded for interviews in each country. In England & Wales, interviews ranged from 20 minutes to 1 hour 30 minutes, with an average time of approximately 40 minutes. In the Netherlands, the shortest interview was approximately 45 minutes, the longest 2 hours, with the average interview lasting over an hour.

Doing the Interviews

Once access has been secured, there are further problems facing the researcher. A central issue of elite interviewing is that it is characterised by a switch of power from the elite to the researcher, which can lead to problems of elite respondents attempting to manoeuvre power by controlling the agenda (Burnham et al. 2004). Morris (2009) also raises the possibility of dishonest respondents. Due to the fact those in elite positions in society often have a public image to construct and sustain, there is a tendency for such actors to 'skilfully employ tactics' used in their everyday habitus to offset awkward questions and project images of events that they see as beneficial to themselves (Batteson and Ball 1995; Berry 2002).

For the most part this did not appear to be an issue in the research, and particularly in the Netherlands there was an open willingness to discuss and defend participants' views. However, in England & Wales there was some reluctance by some participants, particularly serving civil servants and politicians, who I felt were not truly open about particular subjects. Again, this perhaps reflects a core difference between the two jurisdictions which forms a key part of the policy process analysis chapters; that there is a restraining force within England & Wales which prevents individuals from putting their head 'above the parapet' [EW-P1], which is not the case in the Netherlands where the discussion is much more open.

Additionally, elite individuals may have genuine issues of recall and given that participants were talking about events in the past, their accounts may be subjective post-hoc rationalisations. Given the raft of policy measures introduced in the Netherlands, and the technical mess created under the 2004 reclassification, it was not surprising that some issues lacked accuracy. However, the types of interview conducted, coupled with wider cross-referencing and a 'thematic' style of analysis, meant that such issues were fairly well mitigated. Moreover, whilst there were some contestations about the nature of why policy

changes had occurred (e.g. reclassification as a correcting force vs. political deal for Gordon Brown), there was also plenty of instances of common ground found across actors from competing perspectives. This was particularly the case at the local level, when for example, there was agreement on the availability of cannabis in Cardiff, and the types of issues facing particular coffeeshops in one street in Utrecht.

Regarding the type of interviews used, a semi-structured format was used to allow for both focus and flexibility for participants (May 2001). Interview schedules were used as a means to direct the discussions and served as a marker for key issues to be covered when participants occasionally side-tracked. Whilst core components were covered across all interviews, the schedules were tailored according to the type of participant being interviewed to ensure that relevant and accurate representations were generated. In this sense, various parts of a much larger puzzle were pieced together, whilst simultaneously allowing for a questioning of participants' perspectives across different interviews. In terms of the questions asked, these largely followed the organising framework of the policy process. Where relevant, participants were asked about how and why the policy changes had occurred, and the relationship between national and subnational levels of governance (see Table 4.3 in Appendix for an example).

The strategy of punctuated research trips to the Netherlands interspersed with fieldwork in England & Wales had a clear advantage: the assumed naivety of my position as a foreign researcher granted access to territory which I had not originally even thought to have asked in England & Wales, which then initiated a reflective process of the fieldwork. This 'back-and-forth' technique proved to be very useful in developing emerging findings but was also important for generating respondent validation. Whilst at the beginning of the first research trip the strategy was to take a more explorative approach, by the end of this trip and certainly in the second trip, there was a much clearer sense of my interpretations in which participants largely agreed with or offered further thoughts which were then used again to bolster the analysis.

This component was particularly useful given that the Dutch interviews were conducted through the medium of English. Almost all of the Dutch participants had an excellent grasp of English, and where some participants occasionally struggled, there were colleagues to assist. In addition to these techniques, the interviews were recorded and transcripts were provided to all Dutch participants to ensure that they had correctly said what they meant, again providing a mechanism to ensure validity. The vast majority had no comments to make, but some had minor alterations which were taken into consideration. This did raise an interesting question of whether what had been originally said could then be

used in terms of ethical procedures (see Warren 2002; Goldstein 2002), but overall the few amendments were rather negligible and did not affect the broader themes of the interview.

A final note to make about the conducting of interviews relates to the mode where there were some differences between England & Wales and the Netherlands. In England & Wales, most interviews at a national level were conducted via telephone (11/18), with the rest being conducted face-to-face. This contrasted with the Netherlands where all interviews were conducted face-to-face. This perhaps accounts for some of the differences in time afforded per interview in the different countries, as it was notably harder to establish rapport over the immediacy of a telephone interview, as opposed to visiting places and often securing vital pre-interview conversations which helped 'loosen-up' participants. Moreover, there is a more pressing point that the face-to-face interviews often produced richer insights, not least because I could see and read into participants' body language and expressions, but also because they could do the same with me to feed off an enthusiasm which can be somewhat lacking in a telephone interview.

4.5.2 Documentary Analysis

Another important element of the methods used in the study was that of documentary analysis. Documents are published on a regular basis by state agencies regarding drugs and enforcement activities in both jurisdictions, but it is relevant to note that whilst crime control is a Home Office function which covers both England *and* Wales, there are different drug strategies for England and Wales as health is a devolved issue in the Welsh Government. With this in mind, a broad range of documents were reviewed and analysed. These included the most recent state drug strategies and official reports from advisory committees such as the Advisory Council on the Misuse of Drugs in England & Wales, and the van der Donk and Garretsen Commissions in the Netherlands. But in addition to this, specific documents pertaining to the policy changes were examined in more depth.

In England & Wales, this included the announcement of the reclassification by the Home Secretary Jacqui Smith in the House of Commons on 7th May 2008 (House of Commons 2008a); the *Explanatory Memorandum to the Misuse of Drugs Act 1971 (Amendment) Order 2008* which includes an 'Impact Assessment' (Home Office 2008a); the *Home Office Circular 001/2009 - Controlled Drugs: Reclassification of Cannabis* (Home Office 2009); the *Government Response to the Recommendations made by the Advisory Council on the Misuse of Drugs in its Report, Cannabis: Classification and Public Health* (Home Office 2008b); and the *ACPO Guidance on Cannabis Possession for Personal Use* (ACPO 2009).

In the Netherlands, four 'drug letters' formed the basis of the analysis which were central in the national dissemination of how and why new measures were being introduced. These were: the announcement of the Rutte I coalition agreement on coffeeshop policy on 27th May 2011 (Tweede Kamer 2011a), two further drugs letters dated 26th October and 15th December 2011 which further clarified the new measures (Tweede Kamer 2011b; 2011c); and finally, the drugs letter of 19th November 2012 which outlined the revised coalition agreement on coffeeshops under Rutte II (Tweede Kamer 2012). Given that in the Netherlands the local level also publishes an explicit policy on coffeeshops, this also formed part of the analysis (Gemeente Utrecht 2013).

The use of documents provided an account of the various ways in which policy is envisaged, constructed and performed at the national level. Documents are a valuable resource, often readily available to researchers and can provide an alternative insight into the meanings attached to particular policies. Documents do not simply reflect objective truths, but rather are situated accomplishments which are shaped by, and shape, other documents through 'intertextuality' (Atkinson and Coffey 2004; Prior 2004). In this sense, documents and narratives do not simply represent social realities, but also produce them.

In terms of potential weaknesses facing the use of documentary analysis in a comparative perspective, the main challenge was that most official documents published in the Netherlands are in Dutch. In responding to this problem as a non-Dutch speaker, it is helpful to recall Downes' study on the Dutch penal system which has since been heralded as '...a key contribution to comparative work' (Heidensohn 2006:173). Downes, despite being unable to read or speak Dutch, produced an intricate insight into how social 'shields' protected the Dutch criminal justice system from expanding rapidly. He achieved all this whilst relying on accounts given by 'key players' and basing his study '...almost entirely on articles by Dutch lawyers and criminologists written or translated into English' (Franke 1990:82). But a key critique was that '[h]is selection of literature was determined not by what he wanted to know but rather by what was available in English' (Ibid.).

Thus, in order for this study to provide a more balanced account of how problems of cannabis and its control are produced and reworked, there needed to be some engagement with Dutch articles and documents. Returning to the issue of translation, much progress has occurred since Downes' study in this area as well as the wide-spread availability of documents from various countries. Certainly the internet has been a key contributor to this, and coupled with a greater business ethos and professionalism of governments to openly publish documents, the task is considerably less burdensome than it was 30 years ago. Moreover, important Dutch documents are often produced with at least an English abstract,

and for major reports these are often officially translated. There appears to be a keen interest in policy-making circles to engage with the Anglophone world.

In addition to several of the key documents being readily available in English, technological advancements have allowed for a growth in translation software, such as Google Translate, which in combination with access to virtual documents can allow for translation to occur in a relatively cheap and easy manner. Of course, a word of warning should be attached to the use of such software to translate highly technical documents from a country whose language is not widely spoken globally (in comparison to French and Spanish etc.). Some linguistic inaccuracies do occur in such translations and as such it is hard to examine the intrinsic meanings of the language used. However, this does not render the technique useless, as it still provides a surprisingly accurate representation of the broader themes embodied within the texts, and in combination with interviews of 'key players' and academic experts, it was possible to articulate these ideas against an audience from the host country who could help clarify any understandings made.

Overall, the methods utilised facilitated a rigorous form of researcher interpretation and respondent validation through cross-corroboration of methods and accounts across punctuated periods of fieldwork across the two countries.

4.6 Data Analysis

As was noted earlier, a key aspect of the research strategy in interlacing theoretical and abstract notions with empirical observations and interpretations was the adoption of an adaptive strategy. Rather than suppose that there is a linear and passive relationship in data analysis, an important method was to continually reflect and build upon the findings throughout the duration of fieldwork and analysis. In this way, there was no clean or neat hypothesis-to-findings relationship (or vice versa), but rather that through using a theoretical scaffold to initially aid in interpretation, it was constantly reworked according to the emergent data.

Once interviews had been conducted and documents gathered, they were transcribed and analysed through a thematic approach. One of the biggest issues this research faced was the sheer quantity and richness of data. The total number of interviews coupled with the average length of time per interview produced an abundance and overwhelming volume of data. Given this fact, the use of Computer Assisted Data Analysis Software (CAQDAS) may have been an obvious solution to categorising the data. Whilst being trained in the use of NVivo, I opted against the use of such software in preference for a

manual coding approach. There were two primary reasons for this. First, that the development of codes was a lengthy process initially involving trial and error to see how the data ‘spoke’ to each other. It was felt that if a software programme was used for coding and retrieving, not much time would have been saved as I would have had to recode the whole data set several times. But perhaps more importantly, there is a danger that the use of code-and-retrieve programmes too easily fragments data and removes the context in which data originates (Fielding and Lee 1998). By manually reading through and coding the data using traditional methods it was felt that this provided a more connected approach to the data analysis, despite the lengthy process involved.

The data analysis revolved around the main analytic framework of the policy process. From transcripts, the interview data were coded into three broad categories of the ‘problem stream’, ‘policy stream’, and ‘political stream’, and were demarcated according to national and subnational levels. This organising framework provided a useful imposed structure from which a more inductive style of analysis proceeded. For the policy process, smaller meta-codes were again adapted from Kingdon (1995) in each stream. For the problem stream, the principal interest was in the ways in which cannabis had come to be defined as problematic and in need of a policy response. For the policy stream, there was an interest in the ‘political feasibility’, ‘technical feasibility’, and use of ‘research and expertise’. In the political stream, coding evolved around ‘changes in administration’, ‘organised political forces’, and the ‘national mood’. Within these codes, and across the broad codes of the policy levels analysis, further codes were inductively generated and refined iteratively as the research progressed (see table 4.4 in Appendix for simplified example of coding and themes). Regarding the documents, a looser form of analysis was conducted which interlaced the main themes with those generated through the interviews.

Once these stages of data analysis had concluded, the findings were then placed back into the broader theoretical propositions of the culture of control to delineate the extent to which such forces have been felt in this policy area and the nature of its existence. Thus, the use of Garland’s work was used as an orienting theoretical scaffold and then the analysis utilised middle-range frameworks as a means to test and clarify the conditions of the culture of control’s existence. Whilst never claiming to be a perfect research process, as inevitably it cannot be given the messy realities of doing research, a logical and rigorous procedure generated comparative and meaningful data which produced a solid set of findings.

4.7 Ethical Considerations

Ethics within criminological research is an important dimension which requires careful delineation. The nature of this study largely insulated itself from ethical quandaries due to the characteristics of participants and the type of work being done. However, there still remained important ethical issues which needed to be addressed to ensure principles of criminological research were abided by. Given that this research was concerned with 'elite key players' in the cannabis policy network, it was important to leave the field with the discipline of criminology intact, and thus not close off potential gateways for future research and access to influential paths of dissemination. A further important ethical dimension is the '...responsibility to ensure that the physical, social and psychological well-being of an individual participating in research is not adversely affected by participation in the research' (British Society of Criminology 2006). This was particularly important for those participants who are in the public eye, such as national and local politicians. A final major ethical issue within the research regards the nature of informed consent. Again, as participants are in positions of considerable power, there was a need to recognise how the research was presented to participants, and what they were consenting to participate in.

With these issues in mind, several steps were taken in the research to abide by 'procedural ethics' and to form a base for 'ethics in practice' (Guillemin and Gillam 2004). This study was granted ethical approval by Cardiff University's School of Social Sciences Research Ethics Committee and follows the guidelines outlined by the British Society of Criminology. Contained within such procedures are agreements made by the researcher to not be deceptive about the work being undertaken, and to protect those involved in research.

Participants were given an outline of the research prior to an interview taking place with the opportunity for any issues to be clarified in advance. Within the interview, before engaging in dialogue, the research project was again outlined with details given of how the interviews would be used. Participants then gave their oral consent to partake in the research and to have the interview digitally recorded. Whilst gaining written consent is considered the norm, this was not felt to be a productive mechanism given the power relations involved in elite interviewing. Such participants are often well versed in the interview process and as such it would serve more as a hindrance than an aid.

For the vast majority of participants, the recording of interviews did not present any problems, but for two participants, notably one serving, and one former civil servant in England & Wales, there was hesitation about the nature of recording and what would happen with the data. To offset such fears, transcripts were provided to these participants and as noted earlier, transcripts were provided to all Dutch participants. Additionally, informal agreements were made that prior to the submission of the thesis, concerned participants

would be given an advance copy of extracts where their direct quotes had been used to ensure that they did not feel their views had been misrepresented.

In terms of confidentiality, the research referred to participants in the text by an anonymising position reference. However, some participants, who due to the nature of their public position, may be identifiable either at a national level or at a local level. Where this is the case, further consent was granted by the ethics committee to allow for non-anonymised data on the basis that such individuals publicly offer their views on the subject matter and would therefore not suffer any harm as a result of the research.

4.8 Summary

The purpose of this chapter has been to outline the approach adopted with regards to the relationship between theory and method. It has been suggested that research entails the recognition of several interlinking parts which contribute to an overall approach which is suitable for the object of social inquiry and research questions posed. The primary objective of this research was to examine the nature and extent of convergence and divergence in cannabis policy to assess how a purported culture of control unfolds across and within two advanced Western European countries. This was done by looking at the policy process in respect of recent changes to cannabis policy in England & Wales and the Netherlands, both in how policy came into fruition at a national level, and how it was supported, resisted and reworked at a subnational level.

A broad critical realist position has been advocated as a useful orienting framework in which to appreciate the structural and cultural factors which condition how policy is created and translated. Appropriate methods of elite semi-structured interviews and documentary analysis were utilised to test the propositions that there was both *inter*- and *intra*-national convergence and divergence. Through an 'adaptive' approach, the findings were then used to test, build and clarify the broader 'theoretical scaffold' of Garland's culture of control. This allowed the research to provide a more nuanced understanding of the complex realities of policy-making which are mediated differently across varying settings. Following this outline, the analysis chapters are based upon the comparative matrix which examines the policy process within each jurisdiction, before turning to a cross-case analysis across all the cases.

Chapter V

The Policy Process in England & Wales

‘...the 2009 one was going back to the default position of being moronic on drugs policies by all politicians, cowardice eventually took over. If you understand that political decisions are taken on the basis of perception, often very false perception, prejudice, and pressure. These are the three P’s of political decision-making, and the perception by law-makers was that they would be punished in the polls if they were seen to be soft on drugs and they would be rewarded if they were to be seen as tough on drugs.’ (EW-P2: Labour MP, Wales)

5.1 Introduction

The structure of the chapter follows a comparison between the national and subnational³⁴ levels of governance based upon the problem, policy and political streams. As with the following chapter, this substantive analysis of the policy process in England & Wales addresses three of the study’s research questions: to establish how the reclassification came into being (RQ1); to examine the extent of policy convergence and/or divergence between national and subnational levels of governance (RQ2); and to preliminarily identify factors and mechanisms which conditioned this policy response (RQ4). For a key denoting participant positions, please refer to Table 4.2b in the Appendix. But before turning to this intra-national comparative analysis, it is first worth briefly outlining the empirical focus, the change in cannabis classification from Class C to Class B that occurred in 2009.

5.2 The Reclassification to Class B in 2009

The 2009 reclassification to Class B was the reversal of a decision by the same government to reclassify cannabis downwards to Class C only 5 years previously. The 2009 reclassification instigated a number of changes. Primarily, the change in classification affected the maximum penalties that could be given for cannabis offences. For possession, the maximum penalty on indictment increased from 2 to 5 years with an increase in possible magistrate’s fine from £1000 to £2500; and for production and supply offences, the maximum penalties on summary conviction were up-tariffed from 3 months and/or a £2500 fine to 6 months and/or a £5000, with maximum penalties on indictment remaining unaltered (up to 14 years imprisonment and/or an unlimited fine) (Home Office 2009).

³⁴ ‘National’ here refers to England & Wales as a single polity, whilst ‘subnational’ refers to both Wales as a distinct polity from ‘England & Wales’ and Cardiff as a local case site (see Chapter 4).

In addition to these changes, and in accordance with Jacqui Smith's desire for an escalated approach towards cannabis possession offences, the Association of Chief Police Officers (ACPO) introduced revised policing guidelines which intended to affect how police officers would deal and record simple possession offences. Notably, for *adults*, Cannabis Warnings were retained as an out-of-court disposal, but in addition to this was the introduction of a Penalty Notice for Disorder (PND). Below sets out the escalated approach:

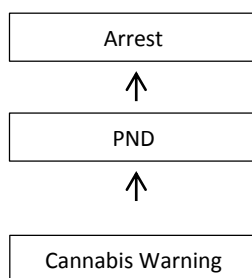


Figure 5.1 *Escalation Policy*. Source: ACPO (2006; 2009)

The changes outlined above all relate to a stricter process for *adult* offenders, but extremely significant is the fact that no changes were made in relation to *young people*: '...no change is proposed in the enforcement regime towards individuals under 18 years of age' (Home Office 2008a:10).

Thus, the change in reclassification, which as will be seen was predicated on both protecting youth and tackling 'cannabis factories', predominantly targeted adult users through a more expansive use of police and criminal justice powers, and did little to alter existing police mechanisms in tackling commercial cultivation. This seems to suggest a large degree of divergence between the symbolic rhetoric embodied in the policy talk, and the actual manifested decisions. Therefore, the change in classification appears to have been premised more upon its tokenistic appeal to be dealing with a set of problems rather than to resolve the policy concerns. But that said, the changes that were made do have consequences for the policy action of cannabis control, with the potential of 'extending the net' of cannabis users caught up in the criminal justice system.

The particular facets of the reclassification outlined above bear importance in further sections and support the main contention that the decision was predominantly a political move to establish the credentials of an incoming Prime Minister. This is not to say that problems did not, and do not, exist in relation to cannabis, but rather that the reclassification did little to address these set of concerns and nor was it really intended to do so. It is to the construction of cannabis as a policy problem at the national level which we turn to first.

5.3 The Problem Stream

5.3.1 The National³⁵ Problem Stream

As highlighted in Chapter 3, cannabis has been constructed as a problem for a considerable period of time prior to the 2009 reclassification and so it is important to recognise that problem definition is comprised of both immediate factors, such as ‘focussing events, crises and symbols’ (Kingdon 1995), as well as more longstanding perceptions and obligations towards illicit drugs (for example, international conventions and the historical criminalisation of cannabis). The analysis highlighted the construction of cannabis as a problem in three main areas at the national level: as a criminal justice problem, a health problem, and a social and moral problem. At times these problems interlinked, but at other times these issues operated rather more independently. Such developments ‘fertilised the ground’ (Kingdon 1995) for policy alternatives and political drivers to take shape, ultimately facilitating the decision to reverse the previous reclassification back to Class B.

Cannabis as a Criminal Justice Problem

The first area in which cannabis became problematised was in relation to the sense of a threat to social order. One of the main themes that arose was the legacy of the 2004 reclassification which left the public and police largely confused about its legal status. This fed in to a wider perception that the reclassification was a mistake and had failed, thus constructing a new problem. Alongside these developments was a noted change in cannabis cultivation, whereby there was a reported increase in the scale of so-called ‘cannabis factories’³⁶ which were linked with organised criminal networks. Prevailing narratives centred on the infiltration of such ‘external threats’, thus adding to the sense that cannabis had become indefensible, widespread and dangerous.

The way in which the 2004 reclassification occurred is of significant importance to later developments. As noted in Chapter 3, an influential factor in lending support for the downwards reclassification was the ‘Lambeth experiment’. However, it was noted that the responsible commander, Brian Paddick, conducted this experiment without the full-support

³⁵ National here refers to the jurisdiction of England & Wales overall.

³⁶ Intensive large-scale cultivation sites.

of senior officers in the Metropolitan police³⁷. Without this support, the police had no overall consensus on the issue, which thus contributed to antagonism from the police towards full implementation³⁸. The evidence of the 'Lambeth experiment' was quickly picked up by the Home Secretary David Blunkett and used as a justification to reclassify to Class C. However, the actual involvement of ACPO in these discussions was limited:

'...we are sitting outside the Home Office waiting to be pulled in there... we hadn't had much part to play, and it was basically told, right tomorrow we don't want to embarrass you, tomorrow there is going to be an announcement in the House about the reclassification of cannabis... I remember saying to the minister, look we haven't really been engaged on this, is it really worth me trying to challenge that? And he was like, no it's not. We were in and out of that meeting in 5 minutes...

...It was shed loads, absolutely shed loads of work... I think it was an absolute dogs dinner, so when it then came back on the table to go back to where we were, I wasn't at all surprised... I'm pretty convinced that actually, sadly the operational side got itself in a right mess. So what practical operational cops do when policy doesn't help them on the street they just ignore it.'

(EW-POL1: Former Chief Constable and ACPO Lead on Drugs)

The political urgency to reclassify within a suitable window of opportunity for Blunkett led to major oversights of the actual significance of changing classification. The exclusion of senior police officers and the immediacy in which they had to respond by producing guidelines ultimately contributed to widespread confusion on how it was to be operationally managed. Fears that cannabis possession would have no longer been an arrestable offence caused concern within the police that it would remove a useful tool which can be used as a gateway for detecting other offences. Perhaps more importantly though, were the perceived fears over a loss of respect:

'...there was a concern amongst the police that this actually was limiting their authority on the street, that young people or cannabis users generally would be defiant and would be smoking cannabis and wouldn't be responding to the police and that the police had somehow lost authority.'

(EW-A5: Academic Expert in Criminology)

³⁷ '...the way he went about it was a bull in a china shop. He didn't consult his boss, he half consulted the local council and stakeholders, but it was gun-ho.' (EW-POL1)

³⁸ '... he probably put so many different people's backs up because of the way he went about it, not because of the idea, and that's why it got grounded in the rocks.' (EW-POL1)

These factors contributed towards widespread confusion amongst police officers, the public, the media, and politicians. The influence of the police lobby ultimately led to cannabis possession remaining an arrestable offence, which together with the increase of trafficking penalties for Class C drugs all but removed the distinction between Class B and Class C. The policing guidelines introduced a 'street warning' (later termed Cannabis Warning) but still allowed officers to arrest an individual for possession under certain circumstances (ACPO 2003), and this contributed to the view that police officers would do whatever they saw fit, rather than follow a prescribed route of sanctions³⁹.

But with the introduction of Cannabis Warnings and a 'perverse incentive structure' [EW-A5] linked to centralised performance targets (see Sosa 2012), there was a rapid increase in police detections for possession offences (see Figures 5.2 and 5.3 in Appendix, and May et al. 2007). The importance here is not the policy action (which is interesting in its own right), but the effect of these trends on perceptions surrounding fears of cannabis, illicit drugs and criminality more broadly. Significantly, with more cannabis being recorded and seized, this coincided with a focussing on so-called cannabis factories. This was solidified in 2008 following the emergence of police data from a National Baseline Assessment and the establishment of a National Co-ordinator for Cannabis Cultivation (ACPO 2010). Data suggested that there had been an increase in cannabis factories found per year from an average of 800 between 2004-2007 to over 3000 per year in 2007/08 (Ibid.). Such police intelligence highlighted the link between these activities and organised criminal networks, particularly Vietnamese groups, who were capable of supplying the investment required to establish a large-scale cannabis plantation:

'...there was a recognition that there was a growing problem of commercial cannabis factories. We did acknowledge that there was big investment to set up a cannabis factory with all the ventilation systems, the hydroponics, and tending to the farm, needs a big up-front capital investment, big cash. Now that has got to come from organised crime. It's not coming from someone doing it for local reasons.' (EW-POL4: Former Chief Constable and ACPO Lead on Drugs)

³⁹ '...because the power of arrest has been retained and it's under aggravating circumstances, if I'm a cop who loves enforcement of cannabis possession nothing changes for me because they will make the circumstances fit if they want to, providing the evidence is there. On the other hand, if you are someone who is much more liberal in your outlook on cannabis, and you saw there was a chance of not doing anything about it, you could make their alleged actions fall outside of the aggravating factors and therefore you don't have to do anything... the majority of people can't be bothered with either one of those and to just ignore it, because at the end of the day the cop has got discretion to deal with things however they want.' (EW-POL1)

The prevailing image was that cannabis was not as innocent as was once thought, and according to experts from the media and the police, was portrayed as a dangerous menace to social order and wellbeing which was underpinned by illicit networks run by threatening 'outsiders' and 'dangerous others' (Garland 2001):

'From about 2007-08 you begin to get quite a lot of stories in the media, particularly in the press, about the police coming across so-called cannabis factories in suburbia... you get this, it's almost a link between immigration and drugs... you've got foreigners who are exploiting a lax situation growing a vast amount of cannabis hydroponically, it's strong stuff.' (EW-A3: Academic and Former BBC Home Affairs Correspondent)

A dominant and popular narrative that started to take shape was that the growth of cannabis factories was linked to the 2004 reclassification. A perception grew amongst sceptics and the media that the 2004 downgrading had signalled a 'laissez-faire' attitude towards the policing of cannabis, which encouraged the growth of production in the UK⁴⁰. This added to the wider critique that the 2004 reclassification had failed and caused more problems to occur:

'...it was part of a creation of a completely new industry, because until that point we hadn't had much home-grown cannabis, we hadn't had what are called cannabis factories... not only did it not save police time [2004 reclassification], it increased because the cannabis industry in the UK is now massive.' (EW-NGO1: Former UKBA and Member of National Drug Prevention Alliance)

However, this is not to suggest that there was a dearth of counter-perspectives, as more critical participants alluded to the simultaneous processes of international law enforcement activity, technological changes, and market competition as factors shaping changing market conditions [EW-A1]. But importantly, these types of narratives did not become influential in the official construction of a problem.

The emerging evidence of a problem, primarily emanating from ACPO and the large increases in police-recorded seizures, was utilised by opponents of the 2004 reclassification to legitimise the perception of worsening conditions which required state intervention. Whilst these issues in isolation may have been potentially pacified through non-legislative change, they became intertwined with other fears, predominantly those relating to the health risks of cannabis consumption by young people, which is where we turn to next.

⁴⁰ 'The other thing that was bounded about in the press was that the whole reason that cannabis took off in terms of cannabis farms in this country is precisely because cannabis has been reclassified and there was some big massive new market for cannabis.' (EW-NGO2)

Cannabis as a Health Problem

The links between cannabis and health issues has received much attention over the past century, and from the turn of the millennia these arguments received renewed interest for a number of reasons. First, the emergence of new evidence linking cannabis to the onset and triggering of mental health conditions; second, the reconstruction of cannabis as ‘skunk’⁴¹; and third, the problematisation of youth cannabis use.

A series of research studies, particularly from the discipline of psychiatry, emerged throughout the 2000s, with increasing claims of a causal link between cannabis and the onset of schizophrenia (see van Os et al. 2002; Zammit et al. 2002; Arseneault et al. 2002). However, the link was downplayed in the decision to reclassify in 2004, with both the Home Affairs Committee and the Advisory Council on the Misuse of Drugs concluding that no such link existed (Home Affairs Committee 2002; ACMD 2002). However, the pressure continued to mount as more studies surfaced and were being reported in the media with the discovery of skunk. This became linked to the purported surge in domestic cannabis cultivation, with these stronger strains being facilitated by technological and breeding advancements which were exploited on a large-scale by criminal networks.

By the time cannabis was reclassified in 2004, media outlets such as the *Daily Telegraph* and the *Daily Mail* questioned the decision to reclassify, with a ‘huge media hysteria’ [ED-A-AC-H1] and ‘...full-blown moral panic about the relationship between cannabis and schizophrenia’ [EW-A3]. There have been tangible changes in the types of cannabis now available, but it is important to recognise the difference between the ontological reality of change and the social reconstruction of cannabis. The use of the media construct skunk allowed for cannabis to be reconstructed as a new, different type of cannabis from that which had preceded it which was much more dangerous and pervasive in society. Such discourses infiltrated the political talk, with Jacqui Smith stating that:

‘I am concerned to ensure that the classification of cannabis reflects the alarming fact that a much stronger drug, known as skunk, now dominates the cannabis market’ (House of Commons 2008a)

⁴¹ ‘Skunk’ describes a multitude of typically domestically-produced cannabis which tends to have a much higher proportion of the main psychoactive ingredient THC, and lower levels of the anti-psychotic component CBD, than imported traditional herbal cannabis and resin. For further information see footnote in Chapter 6.

The notion that skunk was a problem was further confirmed through a Home Office funded research study which suggested that as much as 81% of the cannabis market is now *sinsemilla*⁴², which typically contains higher levels of the psychoactive component THC (see Appendix Figure 5.4). As will later be alluded to, this Home Office study became an important means of legitimising the existence of a policy problem, that high-strength cannabis was a widespread issue in need of a policy response. Moreover, the dangers of skunk became particularly associated with youths using this ‘new’ type of cannabis, a particular medical threat to the still-developing brains of young people.

However, as with issues pertaining to criminal justice, there were conflicting perspectives amongst participants about the evidence base and what it suggested about the ‘problem’. Again, critical perspectives questioned the causal link to mental health problems. Thus, certain types of evidence became prominent in the policy debate, whilst other voices and explanations were quashed. Participants suggested that narratives concerning the mental health issues of cannabis became embedded in political perceptions through high-profile media campaigns which depicted cannabis as a dangerous substance and through the relaying of personal experiences by constituents suggesting widespread problems [EW-NGO-AC]:

‘The focus was on individuals, individual stories of young men who’d taken cannabis and had a terrible psychotic breakdown... tragic stories, and that was politically highly significant and was playing out in the tabloids and so politicians were having to think about what they would do in reaction to those fears.’ (EW-A2: Academic Expert in Criminology and Former Home Office researcher)

In both instances, the types of stories being told were highly tragic and emotional, with young people reportedly having turned psychotic after using cannabis. In this way, a sense of an impending crisis was constructed, that cannabis had previously unknown risks which could destroy people’s lives, and especially young, vulnerable individuals. Interestingly, the role of ‘concerned mothers’ played a central role in these debates and were depicted more as the victims than the young people involved:

⁴² Sinsemilla (‘without seeds’) cannabis refers to the growing of the female plant without being pollinated by a male plant. The result of such growing practices leads to the blossoming of flower tops on the female plant without any seeds. These flowering tops contain the most psychoactive ingredients of the cannabis plant, and such selective breeding strategies have been combined with advanced modes of growing which encourage stronger strains of cannabis to develop. Here the term sinsemilla is used interchangeably with ‘skunk’.

‘...if you look at the examples of cannabis users who have got lots of press attention, the mothers of cannabis users, the Mary Bretts of this world, it was the idea of victims. The idea that your middle class... people that the Daily Mail readers could aspire to be like and they were the ones who were suffering most from their children’s use of cannabis. It was very rarely the users who were interviewed, it was the mothers’ (EW-A1: Academic Expert in Criminology)

Such depictions of cannabis as a threat are further confirmed through the prevailing framework of control. The criminalisation of cannabis activities serves as a reference point to justify and legitimise its harmfulness and subsequent need for greater control. In this sense, critical participants argued that illegality is a shaper of how cannabis is constructed as a health problem in the political realm:

‘It’s illegal because it’s harmful, and then you say well, alcohol is harmful but isn’t illegal. And then the politician says you can’t compare alcohol to cannabis, and then the scientist says why, and the answer by the politician is, because it’s illegal.’ (EW-A1: Academic Expert in Criminology)

Such depictions of harm (and lack of medical benefit) are heavily ingrained into the international conventions on illicit substances, and so in terms of constraints upon the conceptualisation of cannabis, it is important to consider that narratives reproduced at a national level do not lie separately from powers and mechanisms lying above the nation state.

Thus, cannabis was implicitly conditioned as a problem by virtue of its criminalisation, but specific health issues were elevated due to the (re)emergence of research indicating links to mental health problems. Moreover, this fed into the idea that cannabis had transformed into a different substance distinct from the cannabis adjudged in the 2004 reclassification and earlier, and that the effects of its use upon young people were causing significant problems. Negative stories were utilised by the media, opponents of the 2004 decision, and felt in the common lived realities of concerned parents. This created a pressure and need for the government to be seen to be doing something about an apparent epidemic problem, to protect its citizens from an unwelcome threat.

Cannabis as a Social and Moral Problem

The construction of cannabis as criminal justice and health problems were also shaped by, and shaped, an interlinked perception of cannabis as a social and moral problem. Following the arguments above that the use of cannabis by youths became problematic, the focus on youths became embroiled in a wider critique of New Labour, with one 'conservative'-leaning participant claiming that 'Blair's feral youth' were creating vast problems with cannabis seen to be playing a key role in this social antipathy⁴³:

'...we had a whole generation of kids quite seriously damaged... there were social problems created by this vast number of kids not getting into employment at a time of a booming economy' (EW-NGO1: Former UKBA and Member of National Drug Prevention Alliance)

Whilst there has been some evidence of increasing admissions to treatment for cannabis-related mental health problems (see Department of Health 2011), the attention brought by the media may have adversely led to cannabis being treated as a scapegoat for unruly behaviour and other social ills, an easy target for parents to pinpoint why their teenage children were behaving in an undesirable way. This lent itself to a growing perception that the reclassification had been a political mistake, with the government being careless over its young citizens' health. Given that cannabis is the most widely used illicit substance in England & Wales (Home Office 2013b), fears about its increasing harms became coupled with the idea that 'the place is awash with drugs [and] everybody has ready access to them' [EW-POL4]. Thus, it is possible to argue that a 'moral panic' emerged centred on the view that cannabis was more dangerous, and was particularly problematic given its widespread use (Cohen 1972).

Such perceptions were further conditioned by underlying socio-historical moral constructions of cannabis which solidify a distinction between culturally tolerated substances and illicit substances. At the heart of the debate surrounding illicit drugs are moral standpoints towards its use with those of a more conservative and religious disposition taking the position that it corrupts the mind and body. Such standpoints are interlinked with distinctions in legality, which supports a superficial ideological divide between what one participant characterised as 'my drugs' and 'your drugs' [EW-A1]. In this sense, there is a grouping together of substances into two dichotomous categories which are loaded with meanings of both safety and morality:

⁴³ This of course coincided with a recent drive by New Labour to address problems of 'anti-social behaviour' which effectively led to a whole plethora of behaviours, previously hidden from the criminal justice sphere, into focus thereby amplifying problems particularly with deviant youth behaviour (see Squires 2008).

‘...everyone knows that alcohol is much more harmful than most of the drugs controlled, and that would make life difficult for the government because they would have to do something about it. They would have to admit that the Misuse of Drugs Act is not about harms, it’s about some other morality which says that alcohol is acceptable and cannabis isn’t, and that would be a much more difficult break for them to have because they would have to admit that there is no science in the Misuse of Drugs Act. It’s all about morals, or bias or prejudice...’ (EW-A-AC-H1: Former Chair of the ACMD)

Cannabis did not fit into the dominant schema of New Labour, which were ‘...still stuck in their unreconstructed beer and fags and not drugs’ framing [EW-A-AC-H1]. But significantly, a ‘puritanical view’ [EW-POL5] towards illicit drugs has fed into the problematisation of morally dubious behaviour. The increasing reported dangers of cannabis helped reconstruct the view that cannabis was a moral evil⁴⁴:

Such values helped reconstruct cannabis as a problem at the national level, that the 2004 reclassification had transgressed acceptable political and moral boundaries and had fuelled a widespread crisis. Notions that cannabis had transformed and had become more dangerous fed into this view, which was conflated by perceptions of harm and criminality. Next, we turn to critically compare such problematisations of cannabis with the subnational level.

5.3.2 The Subnational Problem Stream

Overall, findings from the subnational level highlight points of cross-over with the way in which cannabis was constructed as a policy problem at the national level, particularly in recognition of the abundance of commercial cultivation and health problems attributed to the consumption of cannabis. However, there is a sense in the policy talk that cannabis, and particularly low-level possession offences, lie under the radar with greater importance given to substances which are perceived to generate much greater harms, predominantly alcohol and Class A drugs such as heroin. Before turning to examine the local case site in more depth, it is first necessary to explore the broader context of Wales and how drugs, or ‘substance misuse’, have been framed.

⁴⁴ Referring back to Chapter 3, this perspective draws clear parallels with former Home Secretary and Prime Minister James Callaghan’s views and justification against instigating the recommendations of the Wootton Report in the late 1960s.

As will later be seen, the role of Wales in the reclassification process was largely absent, primarily due to the fact that criminal justice legislation remains the remit of the Home Office, and therefore the Welsh voice in framing the issue appeared to be inconsequential, or even missing. But that said, to understand the local response to cannabis and the 2009 reclassification, the context of Wales and the policy talk and decisions of Welsh Government still provides a broader conditioning role.

In several regards, drugs policy discourse in Wales demonstrates a more rational and pragmatic approach than can be found in England. The framing of issues regarding substance misuse is seen to be more 'sympathetic' [EW-P1] in Wales towards the individual substance user than in England:

'We are more likely to use the softer language of, these could be people you know, these could be people like you, and if they fall into difficulty we ought to be able to help them because you might be in difficulty one day' (EW-P1: Senior Political Figure)

One of the most historically distinguishing aspects of Welsh drugs policy is that all substances (both licit and illicit) that can potentially cause addiction and harm are placed within the same strategy, and have been since before its establishment as a government and well before England had even produced a harm reduction strategy on alcohol (Welsh Office 1996; National Assembly for Wales 2000; Cabinet Office Strategy Unit 2004). This is not least due to an overt recognition of the high levels of harm emanating from alcohol⁴⁵, but that there are also shared factors which contribute towards, and are consequences of, different forms substance misuse (National Assembly for Wales 2000; WAG 2008).

One major contributory reason for the development of this 'Welsh approach' relates to the technical feasibility to formally shape certain policies and laws in Wales. Even prior to the establishment of the Welsh Assembly Government in 1999 it was noted that the Welsh Office had freedoms to shape policies around health that it did not have with criminal justice, and a health-led framework became further solidified following devolution of powers in this area⁴⁶:

⁴⁵ The harmful use of alcohol in Wales is far more widespread than that of illegal drugs and other substances' (WAG 2008:12)

⁴⁶ '...the Home Office always had ownership and stranglehold on criminal justice matters, those people working in the Welsh Office at the time were in a sort of health division which was always much more decentralised and much more Wales, unlike the Home Office and criminal justice... it was through the health and through the local authority systems, that in Wales they had a degree of control over... much more than crime and justice and policing matters' (EW-NGO-AC)

‘...we like to think we are independently minded, and we have got health devolved so I think the emphasis on treatment and prevention is certainly stronger than enforcement because the policing isn’t devolved and neither is the law... so I suppose the way we’re geared in terms of the democracy and the set-up is twisted towards what we can do about drugs.’ (EW-POL-CS1: South Wales Police and Welsh Government)

Thus, the technical inabilities to shape criminal justice matters has led to the sharpening of those areas in which policy movement is attainable. This is further shaped by a belief that law enforcement efforts are not effective in tackling illicit drugs markets, signalling an adaptive acceptance of the limitations of the criminal justice system in responding to illicit drugs (Garland 2001). As such, there is recognition that law enforcement efforts have ‘...made less impact in this area’ with illegal drugs ‘...easy to access and the prices have continued to drop’ (WAG 2008:48). Moreover, enforcement should be prioritised on ‘those who supply drugs to children and young people’ (ibid:52). Consequentially, there is an implicit framing of the law enforcement lens away from applying punitive responses to users (*qua* simple possession offences), thereby contributing to an aim of ‘not stigmatising misusers’ (ibid:21).

Combined together, these factors indicate the preference for a harm-reduction approach which minimises the impact of law enforcement on individual users through a dominant health-led narrative. This provides an important broad environment in which local authorities in Wales conceptualise problems, especially in the Capital.

Cardiff

Drilling down into the local case site, and the policy talk further evidences the centrality of the provision of treatment and harm reduction services in responding to substance misuse. Predominantly this appears to refer primarily to alcohol and injecting drug users which are seen as being the biggest problem with cannabis seen as a prevalent, but side issue. Such feelings were shared across a variety of participants from the police⁴⁷ to health:

‘[Cannabis] is one of the drugs that is less-focussed on. From a criminal justice perspective we have got the Class A drugs, and from a public health perspective alcohol, so cannabis is stuck

⁴⁷ ‘I can say alcohol is a lot worse than cannabis because I see a lot more alcohol-related violence, I see a lot more alcohol-related self-injury... personally I would rather deal with a suspect who was off his face on cannabis than off his face on alcohol, purely because of the different effects of the drugs’ (EW-POL2: Police Constable, South Wales Police).

there in the middle... public health-wise alcohol is going to be a bigger concern for us.’ (EW-CS-H2: Substance Misuse Action Team, Cardiff)

However, despite the conception of cannabis as a less harmful substance, there was still a wide recognition and perception across a variety of participants that cannabis is widely available, especially for young people:

‘...the drug of choice in Cardiff is cannabis... It is everywhere across the city regardless of deprivation or privileged areas.’ (EW-NGO3: Third Sector Substance Misuse Worker, Cardiff)

‘...we have got to be tolerant of the fact that in society cannabis is available as it has been for many many years and what we need to do instead of just being blinkered in our approach to dealing with it we look at a range of options such as education’ (EW-POL3: Neighbourhood Team Supervisor, South Wales Police)

In relation to this latter quote from a police officer, there was also a sense that the inevitability of cannabis consumption sits uneasily with a purely law-enforcement driven approach, which was coupled with a wide recognition that the policing of possession offences is a cause of harm, and therefore a problem in and of itself⁴⁸. But whilst the consumption of cannabis is largely seen as unproblematic by the police, the other aspect of *cannabis as a criminal justice problem* which largely correlates with the *national problem stream* is in relation to cannabis factories which are seen to be widely prevalent:

‘South Wales I know over the last 5 years has had an amazing number of cannabis factories found and before then the technology wasn’t really around for that to be done and then all of a sudden it just sort of boomed’ (EW-POL-CS2: South Wales Police, Welsh Government and ACPO Cymru)

Whilst there is some contestation about the nature of what constitutes a cannabis factory in terms of the scale and amount of cultivation, larger operations were linked to organised crime and other problems related to these practices, such as property damage, human trafficking and other serious forms of criminality:

⁴⁸ ‘Cannabis warnings... there were loads and loads of them issued and then that was seen as maybe not the best way of tackling the problem because you’re criminalising somebody for having a little bit of cannabis on them and that stays with them their whole life. It could stop them travelling abroad and getting jobs and everything.’ (EW-POL-CS2).

‘...it’s certainly connected to organised crime... [It’s] connected to drugs and cannabis is one of the most common. Houses have been rented and houses have been ripped apart, electricity has been stolen, people are getting injured... you have got people from the far-east, Vietnam, who have been associated with growing cannabis in houses.’ (EW-POL-CS1: South Wales Police and Welsh Government)

Finally, there were mixed views at the local level in terms of the construction of cannabis as a health and social problem. On the one hand, the consumption of cannabis did appear to be presenting problems for young people which were identified by participants across health, criminal justice and in third-sector organisations. Exemplifying this perception, a substance misuse worker argued:

‘What tends to happen as a person progresses through their teens and they carry on smoking, then you get entrenched dependency on cannabis, particularly among disadvantaged young people... I think in a way the biggest problem with it is that they switch off to other activities or learning or education, and some young people will smoke to the exclusion of all else. I have seen some very very heavy cannabis habits, it is as detrimental to them as heroin would be.’ (EW-NGO3: Third Sector Substance Misuse Worker, Cardiff)

However, contrasting with this view was a conflicting perspective that suggested that the purported increases in problems, which was heavily suggested at the national level, was not due to an actual change as such, but rather was due to greater reporting, recognition, and perception that cannabis was causing mental health and other social problems which accords with a labelling perspective (Becker 1963):

‘I wouldn’t be able to make an association between an increased strength of cannabis and an increased level of use or an increased prevalence of cannabis-related diagnoses occurring in the services... I think the competent skills of the mental health workforce have improved to enable them to make the association more often... Because we weren’t asking the question, you don’t know the extent to which it proliferated before.’ (EW-CS-H1: Substance Misuse Policy Worker, Cardiff and Welsh Government)

‘...often it is a convenient cause that a parent or relative or whoever can pinpoint and say it is the drugs, whereas there might be a whole raft of things going on and perhaps the drug use isn’t helping but it’s certainly not the root cause’ (EW-NGO3: Third Sector Substance Misuse Worker, Cardiff)

Thus, in some ways the experiences and construction of cannabis as a problem at the subnational level corresponds with its national problematisation preceding the 2009 reclassification. But whilst problems are perceived to exist with cannabis, the context of a more 'sympathetic' [EW-P1] Welsh context towards substance misuse and a greater focus on alcohol and Class A drugs has meant that low-level possession is not considered the significant problem at hand. Where cannabis is concerned, the focus is predominantly on supply and cultivation which is connected to organised crime, or through a health perspective seeking to reduce harm to young individuals.

Even so, the widespread availability and use of cannabis presents an issue of resource allocation, for as one substance misuse policy worker noted, if cannabis was to be placed higher up the list of policy concerns, 'I don't think we have the resources to cope with the potential volumes' [EW-CS-H1]. Such factors which condition the construction of cannabis have an important role for the way in which policy responses are supported, adapted, resisted or created at the subnational level. But before examining this, we shall return to the national level to explore how the policy choice of the 2009 reclassification came to be a preferred 'alternative'.

5.4 The Policy Stream

5.4.1 The National Policy Stream

The process of determining policy options appeared to counter the suggestion that a plethora of possible alternatives are considered before being narrowing down (Kingdon 1995). The option of reclassifying to Class B was ready-made and advocated as the only acceptable change, to return cannabis to its rightful position. Nevertheless, the reclassification met a set of underlying criteria which in combination with political factors allowed for it to come into force. As soon as cannabis was reclassified to Class C in 2004 the option to reverse the decision was placed in the 'primeval soup', where it developed and attached itself to the concerns in the problem stream. Importantly, the reclassification was politically feasible and chimed with dominant political values, it was supported through the selective 'marshalling' of research and expertise, and it was technically feasible.

Political feasibility

The political feasibility of policy change in drugs policy at a national level is conditioned by a series of interlinking factors which more readily facilitate punitive responses to problems surrounding illicit substances. One of the major themes arising from the analysis concerned the notion of ‘political currency’. Drugs policy is viewed as a ‘toxic third rail issue’ [EW-A1] in the political sphere which is not seen to be profitable for a politician to engage with. The reluctance to engage with the subject is driven by a concern that there is no simple answer to drugs policy with ‘no obvious gain’ [EW-A3]⁴⁹.

From a senior political figure’s perspective, drugs policy is an area which for many is not worth the risk of ‘sticking your head above the parapet’ [EW-P1]. The types of responses that are favoured are largely influenced by perceived public attitudes. Liberal reforms are purportedly difficult due to the ‘culture and background of the country’ [EW-POL1], with the two main parties, Labour and the Conservatives, being traditionally very resistant to change in the drugs policy sphere⁵⁰. However, this is not to over-emphasise the lack of ‘counter-doxic’ (Garland 2004) perspectives in England & Wales, but that the number of politicians willing to take a publicly-known position outside of the political norm appears to be few.

This alludes to an important conditioning factor in the selection of policy alternatives, that of the cultural and historical role of criminalisation. The treatment of cannabis as a criminal justice matter, and led by the Home Office, has reinforced the notion that cannabis is a criminal problem (rather than social or health problem for example). In a broader political context geared towards punitive action, problems in the criminal justice realm are given ready-made labels and solutions (e.g. being weak on crime, must punish more). As suggested in the preceding *problem stream* section, the status of an illegal drug then serves as a self-justifying mechanism of its harmfulness which blocks off alternative paradigms. Thus, appropriate policy responses are aligned with further repression as corroborated in the reflections of a former ACMD member and in the policy talk of Jacqui Smith:

‘...there is a mind-set and a paradigm set that the way we can influence behaviour is through legislation, control... the default position I think of the country, of the population, is punish... It is based on a model of behaviour change and punishment, this is the prevailing paradigm.’
(EW-NGO-AC: Independent Drugs Policy Organisation and Former ACMD Member)

⁴⁹ ‘When you are in government all you can see is the downsides, and you would rather focus on the things where you might get an easier win than drugs policy which is very complicated and there is no obvious gain.’ (EW-A3)

⁵⁰ Although it is worth noting that other, small political parties do overtly campaign for different approaches, such as the Liberal Democrats and the Green Party, but up until 2010, these parties had little influence on official decision-making.

‘My decision to reclassify cannabis is part of the *relentless drive to tackle drugs* and the harm they bring to families and communities... This is the right action to protect the public, particularly the future health of young people and the most vulnerable.’ (Jacqui Smith, House of Commons 2008a, emphasis added)

Part of the justification for reclassification was the ‘consequences for policing priorities’ (House of Commons 2008a). As Jacqui Smith stated in relation to the purported growth in commercial cultivation:

‘This cannot be tolerated... Reclassifying cannabis will help to drive enforcement priorities in shutting those farms down’ (ibid.)

In this sense, the option of reclassification back to Class B became a politically feasible way to respond to the perceived failures and criticisms levied at the 2004 reclassification which construed New Labour as being weak on crime, and given the culture of policy-making in this area, this blocked alternative options from being considered.

The problematisation of cannabis resonated with a set of dominant political values that guided the selection of a policy alternative. As previously mentioned, the dominant orthodoxy in drugs policy (at least) up to the 2009 reclassification was shaped by a desire to protect citizens from dangerous substances. The way in which such protection is granted is through the proliferation of responses which attempt to change behaviour through punishment and control. This is confirmed in the lead role of the Home Office in creating and implementing policy.

Moreover, the notion that cannabis is a problem because it is illegal is then fed into what is considered as appropriate responses to such a problem. It is ‘...based on this combination of morality and power with people donating their own moral preferences with the benefit of the power they have to back them up with’ [EW-A1].

The particular moral preferences of key decision-makers in the process allowed for the option of reclassification to Class B to manifest itself as a plausible response to a set of concerns. In particular, those of the then Prime Minister, Gordon Brown, were particularly salient given his powerful and influential position. Brown became Prime Minister with a strong religiously-guided view towards morally dubious activities and sought to mark an impression upon a set of policy areas (e.g. ‘super casinos’ and alcohol licensing). Cannabis

became part of these concerns which was reinforced by its problematisation in the public sphere⁵¹:

‘I suspect with Gordon Brown that he was making a break from the past. Again, I don’t think you can look at it out of context with what else that [that] incoming new Prime Minister was trying to do. If you cast your mind back there was lots about gambling and mega casinos. This was seen as a liberal elite in the Labour Party, is the new leader of the Labour Party willing to exert some of his Presbyterian philosophies.’ (EW-NGO-AC: Independent Drugs Policy Organisation and Former ACMD Member)

Thus, individual preferences of key decision-makers are an important shaper of what policies are advocated as possible responses to a recognised problem. This is not to suggest that Brown’s Presbyterian beliefs were widespread or dominant, but that they paralleled a set of public anxieties on the issue of cannabis at that time. Thus, reclassification was not only preferable in terms of Brown’s own value system, but that it was congruent in terms of other criteria, such as satisfying public and political pressures. Thus, it became the only politically realistic ‘choice’.

Furthermore, what this analysis demonstrates is a deep tension between democratically-elected representation and rule of non-elected experts (Loader 2006). Referring back to the opening quote of the chapter, the conditions of doing cannabis policy during this period highlight the ‘three p’s’ of political decision-making: ‘perception, prejudice, and pressure’ [EW-P2] which seemingly placed greater emphasis on populist and media-driven fears, facilitated through the power and ability of powerful elected leaders, than on the advice of experts. Next, we assess the role of research and expertise in the *policy stream*.

Research and Expertise

A further aspect that is of relevance for how the reclassification to Class B became the preferred policy option is in relation to research and expertise. This is a significant area given the statutory responsibility for the Home Secretary to consult with the ACMD prior to making any changes to legislation. The relationship between the ACMD and the government was tested several times during the 2000s, culminating in the eventual dismissal of its Chair,

⁵¹ ‘You would have to look at Brown’s background, almost a puritan in a way, so there is that. I think he was quite swayed by this notion that the long-term effects of cannabis are unknown, so he is sort of playing the precautionary card in a way.’ (EW-A4)

Professor David Nutt, and the simultaneous resignation of several members in the aftermath of the reclassification.

Over a period of 6 years, the ACMD were asked to review cannabis classification three times (ACMD 2002; 2006; 2008). This in itself highlights the political urgency attributed to cannabis throughout the 2000s. As the pressure mounted to immediately revisit the classification of cannabis after the 2004 reclassification, the then Home Secretary Charles Clarke initiated a second review in light of new evidence that had emerged. The ACMD concluded that ‘...the Council does not advise the reclassification of cannabis products to Class B’ (ACMD 2006:1). The advice was accepted by Clarke, and for reasons detailed in the *political stream* the issue was ‘kicked into the long grass’ [EW-NGO2]. However, this moment was significant as it was the first window of opportunity for the 2004 decision to be reversed. As discussed earlier, the individual characteristics of those involved are hugely important. It was noted that Clarke was respectful of the role of civil service and advice, a characteristic which later Home Secretaries lacked:

‘He was a very very thoughtful politician... he very much respected the advice of civil servants, the role that civil servants play, and the role that advisers play. Then I think you see subsequent Home Secretaries coming in who are less influenced and shaped by that... I think the latter ones very very very much so, they are going to get crucified on the cross of public opinion.’ (EW-NGO-AC: Independent Drugs Policy Organisation and Former ACMD Member)

Despite Clarke accepting and utilising the ACMD’s conclusions to justify keeping cannabis as a Class C substance, the issue remained on the political agenda. By 2007, the third review was called for under the auspices of Jacqui Smith. By this time, the ACMD had slightly shifted its position towards the link between cannabis and mental health, but again concluded that cannabis should remain a Class C drug, stating that since the last review ‘...the evidence has become more, rather than less confused’, and suggested that ‘cannabis – in the population as a whole – plays only a modest role in the development of these conditions [psychotic illnesses]’ (ACMD 2008:33). According to participants who were ACMD members at the time, their decisions surrounding cannabis classification were largely supported by a broad consensus within the council.

Despite the recommendations of the ACMD, the government ultimately chose to ignore their scientific advice and reclassified cannabis to Class B. But even so, the ACMD report was used alongside the Home Office study on cannabis potency to justify the political decision. As Jacqui Smith’s announcement in the House of Commons stated:

'Today I am publishing the results of a study undertaken with 23 police forces across England and Wales. This provides **clear evidence** that skunk now makes up 80 per cent of street-seized cannabis, compared with 30 per cent in 2002... The advisory council's report confirms that cannabis use poses a **real threat** to health. The council is concerned about its use among young people, and points to growing evidence of a causal link, albeit a weak one, between cannabis use and psychotic illness...

...There is a **compelling case for us to act now** rather than risk the future health of young people. Where there is a **clear and serious problem**, but doubt about the potential harm that will be caused, **we must err on the side of caution and protect the public**. I make no apology for that. I am not prepared to wait and see.' (House of Commons 2008a, emphasis added)

A major contention is that the decision to reclassify was already at the forefront of the minds of those in power at the time. The announcement of the government's intent to reclassify was made in the House of Commons even before the advice of the ACMD was sought, immediately closing off other, potentially more beneficial, policy solutions.

In 2007, Gordon Brown stated that the Home Secretary would '...consult on whether it is right that cannabis should be moved from Class C to Class B' (House of Commons 2007). The problematisation of cannabis had put pressure on the government to respond to its own earlier decision to reclassify downwards, with supporters waiting with a suitable response, and evidence was utilised to legitimise their chosen policy response which fitted more with political desires than to introduce the most rational, evidence-based response:

'At the time he asked us to reclassify, or the Home Secretary did ask to have a look at it again, he sent his minders out on the street saying he is going to reclassify to B, even before we told him what the evidence was... I did actually write to the Home Secretary and I wrote to the Prime Minister, and said if you have already made your mind up what's the point of asking our advice?' (EW-A-AC-H2: Former Chair of the ACMD)

In the midst of conflicting evidence, it would appear then that the tendency has been to base policy decisions on other criteria. In this sense there is no 'scientific' logic behind responding in a particular way, but rather scientific evidence was used as a means to highlight a problem, and the processes inherent in deciding how best to respond were tied to punitive rationalities. This self-justifying paradigm alienates responses which fall beyond the pale of prohibition, and the unwillingness of politicians to 'think outside the box' (due to political ramifications of appearing 'soft') has meant that evidence has been used in a self-serving

manner, to justify the common, well-known ‘fact’ that a more punitive display of policy is the most appropriate measure to ‘protect the public’.

This is further facilitated through cultural practices within politics and the civil service which ultimately lead to preferable policy options that fit within dominant frameworks of prohibitive control. The political currency of adopting a ‘law and order’ approach is much more valued in the rationalities of politicians within drugs policy, and as a result, has a trickling down effect on the types of evidence utilised and the policies which civil servants and ministers will propose:

‘There is not much political benefit... People get marginalised. Young politicians in their rising career are not going to do anything to upset their future career prospects and put themselves on a huge collision course with their whips and leaders.’ (EW-NGO-AC: Independent Drugs Policy Organisation and Former ACMD Member)

Thus, civil servants wishing to please their political masters ‘marshal’ evidence to suit policy initiatives which give it a label of scientific legitimacy:

‘Sometimes, dare I say, you might have to marshal the evidence in such a way that it supports the decision, and I think over time that became more and more the scenario, that you got a decision and your task was to find the evidence to support that decision, rather than find the evidence which demonstrated what the most sensible way forward would be.’ (EW-CS-CJ2: Former Senior Home Office Civil Servant)

This corroborates the view that Charles Clarke was much more willing to accept the advice of the ACMD in spite of heightened media and public pressure, whereas when Jacqui Smith assumed power under Gordon Brown the advice of the ACMD became secondary to other, more political, concerns. But whilst politicians’ ‘perceptions, prejudices and pressures’ [EW-P2] to act in a given situation lends itself to a more punitive direction in drugs policy, there is a fundamental ambivalence between desiring tougher policy whilst counterbalancing the potentially huge administrative burden that stricter action would create upon agencies. This takes us on to the final part of this section, to explore the ‘technical feasibility’ of the reclassification.

Technical feasibility

A final component that has been adapted from Kingdon (1995) refers to the ‘technical feasibility’ of policy change. The reclassification was not a proposal to subvert the classification system or attempt anything radical. Rather, it was a simplistic but symbolic move within the already-established framework. For some, including a former Chair of the ACMD, the Misuse of Drugs Act has become an outdated veneer which does not accurately represent its intended purpose of scheduling drugs according to harm:

‘The Misuse of Drugs Act is no longer fit for purpose. I mean that’s bloody clear. A lot of the drugs are in the wrong places... It just shows there is no relationship between harms and their position in the Act. The Act is wrong, it is flawed, and if it is flawed it is unjust. It determines penalties and the penalties are incorrect.’ (EW-A-AC-H1: Former Chair of the ACMD)

However, the Misuse of Drugs Act provides a rationale for politicians to attempt to establish legitimacy that they are responding to issues of drugs in a punitive fashion. Through a dominant perspective that behavioural change is through punishment, the ‘politico-logic’ follows that increased problems surrounding cannabis should be accompanied by an upgrading in its classification. As such, the 2009 reclassification did not challenge any legislative orthodoxies, but instead reproduced the already dominant philosophies and discourses surrounding cannabis, and by doing so fulfilled the criteria of being technically feasible.

The ‘policy predicament’ (Garland 2001) facing the government appears to be particularly salient in the case of cannabis. On the one hand, there is a view that firm action needs to be taken to counter the reported negative consequences of consumption, but on the other hand there is a benign acceptance of its consumption in society and that being too tough would be counter-productive. The policy ‘alternative’ of reclassification to Class B fitted both these needs – it did little to change existing practices which have arguably allowed for the *de facto* decriminalisation of low-level cannabis offences⁵², but the change signalled that the government was somehow taking action and responding to public and media fears. In this sense, the political value of reclassification was not based in its evidence-based problem-solving capacity, but rather was premised on its symbolic value.

5.4.2 The Subnational Policy Stream

⁵² As indicated in the numbers who actually receive a custodial sentence for possession (308 in 2009). See Sentencing Council (2011).

So how do such tendencies in the selection of a policy alternative compare to the subnational level in the partially-devolved setting of Wales and Cardiff? On the whole, it is telling to note that there was very limited impact from the subnational level both in terms of how the reclassification was selected as a preferable policy 'alternative' and in how it unfolded into a local case site. Moreover, there appeared to be little sign of official attempts to carve alternative criminal justice responses to cannabis. But despite this, it is argued that cannabis policy is still reworked in more unofficial ways at the local level which accord with a more distinctive and divergent health-oriented approach in Wales as a whole.

Wales

Whilst much of the way in which issues regarding substances are framed in Wales appears to be based on a more rational and pragmatic understanding of the problems that affect individuals and communities, it is still locked into broader dominant frameworks of how drugs should be controlled and responded to. In this sense, there is a lack of debate, or even acknowledgement, of alternative ways in which illicit substances could be managed which could potentially allow for their harm-reductive aims to be more readily achieved. For example, rhetoric such as '...making sure that services are equipped to meet the health needs of substance users is our top priority' and 'developing policies and strategies *we know work*' [EW-CS-H1, emphasis added] are all based within the current paradigm of thinking. This then affects the types of evidence sought and utilised, all of which exist within the same *modus operandi*⁵³.

The nature of policy-making in Wales is one which involves a fairly narrow set of policy-makers. The benefits of a dominant political tradition, in the shape of social democracy (see Chapter 2), and relatively close networks of policy actors, is that policy goals can be more readily achieved. However, one criticism levelled at the Welsh system is that there 'isn't enough grit in the oyster' [EW-P1], signifying a lack of critical debate. With criminal justice as a no-go area, dominant philosophies and discourses are accepted and re-performed:

'...this fatuous idea that if you get lots of people sitting around a table you pool their wisdom, you don't, you pool their stupidity and their prejudice, and you don't get sense you get prejudice.' (EW-P2, Labour MP, Wales)

⁵³ 'from our point of view the messages to people is almost irrelevant to their classification in that respect because we're looking at prevention, education, the risks associated, and the treatment of... so we have not got dragged in to that ... which is not actually a welsh government responsibility' (EW-CS-H4)

As such, there appears to be little willingness to look beyond prohibition for political decisions around illicit substances, with seemingly a range of individuals from politicians to civil servants, experts (in the form of the Welsh advisory group APoSM) and practitioners not engaging in the debate:

‘...it’s like the debate doesn’t happen at all, so I get very straightforward advice within the parameters of the way that policy is currently configured... people like that [APoSM] who are not in the government machine but are there to advise it, even there they don’t raise it as an issue at all. They simply talk within the tram lines.’ (EW-P1, Senior Political Figure)

‘I don’t see any pressure on the Welsh Government to lobby the Westminster Government in opposition to any of the decisions around classification, and I don’t see there currently being any appetite for them to do that either... having worked supporting and briefing ministers for some time around this, it’s just not on the radar at all.’ (EW-CS-H1: Substance Misuse Policy Worker, Cardiff and Welsh Government)

In relation to the 2009 reclassification there were no attempts to resist or challenge the policy change from the Welsh Government, with the issue seemingly not making it on to the political radar of Welsh politicians. This can be partly explained by the issues addressed above, but further elements pertaining to the political system and relations between the Welsh Government and Westminster are discussed in the *subnational political stream*. But whilst Welsh talk and decisions were absent from the national (England & Wales) policy process, implicit points of divergence were exhibited in how the reclassification unfolded at the local level.

Cardiff

Following the patterns exhibited at the broader level of Welsh decision-making, there was a distinct lack of official challenge exhibited by the local level in the reclassification of cannabis. Whilst it was suggested that ‘...they have a different set of freedoms in all sorts of areas’ [EW-P1], such powers are not utilised due to the belief that either they cannot, or are not willing to, seemingly confirming a caricature of local authorities as ‘delivery organisations’ which follow the broader discourses exhibited at the upper level of governance:

‘...they’re not encouraged, the way they’re configured, the powers that they’ve got, the way that they are thought of, it’s inimical to that in any case. So even if they really wanted to do it, they wouldn’t find it easy... I don’t think you’ll find it in substance misuse.’ (EW-P1: Senior Political Figure)

‘I’m not sure they would want it, it’s a bit of a toxic area to be responsible for, and I’ve never heard of any local authorities calling for the power to influence that [cannabis] either’ (EW-P3: Liberal Democrat Politician, Wales)

But whilst official tendencies appear to lie in tandem with a commitment to prohibitive paradigms, there are ways in which policy is reworked along more unofficial lines to fit local and pragmatic needs of those involved in service delivery.

The perception at the local level that cannabis consumption is an endemic phenomenon has led to an informal pragmatic ‘adaptation’ to its control in the way in which resources are directed and managed. Within the police especially, there is an acceptance of the deficiencies of a purely law enforcement driven approach towards individual users. The appreciation that ‘...the fight in respect of cannabis is lost’ [EW-POL3] has implicitly shifted the focus of police resources away from dealing with low-level possession offences to other offences deemed to be more important. In this sense, for cannabis offences more priority is attached to the cultivation and supply of cannabis. The large amount of discretion given to police constables in dealing with possession offences means that there is a great deal of flexibility in approaches. For most police participants, the reclassification back to Class B made little difference to how the police strategically approach cannabis offences, which are much more influenced by other factors, such as time and resources⁵⁴:

‘The arrests that are generated as a result of drug possession generally will create paperwork and obstructions at key points in time when you have got a limited number of officers... that can be a real factor in the minds of middle managers and sergeants who will give that clear direction.’ (EW-POL-CS1: South Wales Police and Welsh Government)

This further confirms the argument that the reclassification was more of a symbolic policy move rather than a meaningful, tangible change. Further to this, participants from the police

⁵⁴ ‘...when it comes to cannabis, a lot of it is purely down to how busy you are... you don’t let anything go in a sense, it’s just how you actually deal with it on that street level which might be sticking it in the drain or it might be bringing them into the police station to go to court... a lot of it is discretionary and in the scale of things police officers have to deal with, it’s down there at the bottom a bit of cannabis for personal use’ (EW-POL2).

often saw themselves as being protective agents, in the sense that there was recognition of the potentially harmful effects of criminalisation combined with a paternalistic rhetoric:

‘...in many areas drugs policy can be murky, clear messages will always come out of the Home Office, stamp all over these people, and the reality is, how would you like your kids to be dealt with? And that’s how we try to police’ (EW-POL-CS1: South Wales Police and Welsh Government)

This lies in tandem with the widespread perception across all participants that the classification of cannabis ‘doesn’t make a great deal of difference’ [EW-POL6], and so there is an underlying tone of pragmatic acceptance that people will use cannabis, and so rather than have a stringent approach that fully enforces the law, it is more beneficial to deal with circumstances flexibly and in combination with actors and agencies supporting a harm-reduction agenda.

But more broadly, the removal of centralised targets which encouraged a ‘perverse incentive structure’ to develop around out-of-court disposals for cannabis possession also contributed to the idea that this was not an appropriate use of police time and not a useful way to evaluate performance. As a result, attention then shifted towards cannabis factories:

‘...more focus then went on finding cannabis factories, finding who the farmers were, who was financing it, how the money was being laundered from it and tackling it that way... cannabis warnings are easy, they’re easy pickings, whereas managers in the police would rather an officer properly and thoroughly investigate a burglary and get a detection with that.’ (EW-POL-CS2: South Wales Police, Welsh Government and ACPO Cymru)

Thus, a more influential change than the reclassification in the policing of cannabis at a local level relates to the removal of centralised police targets which skewed police performance. Local performance targets regarding illicit drugs now relate only to recorded instances of drug trafficking (South Wales Police 2011). As such, the incentive for officers to bring cannabis possession offences ‘to justice’ has gone, with imperatives to improve ‘community satisfaction’ and ‘value for money’ of police activities (ibid.). This clearly demonstrates divergence between the political pressures found in the national policy realm and the pragmatic strategies of managing issues at a subnational level.

So the national introduction of the Penalty Notice for Disorder is but another means for the police to deal with cannabis users without resorting to arrest and processing through the courts – another tool in the toolbox of policing. Moreover, the change in classification

made no difference to the ability to police cannabis factories, and whilst this is a policy concern that has grown in importance at the local level, the general remit of ‘reducing crime’ allows the police to be flexible in its enforcement regimes.

Further to this, in relation to the broader response to cannabis from other agencies, the relative risks of cannabis as well as pressure on resources has led to an acceptance that in relation to other substances, particularly alcohol and opiates, cannabis poses far less risks and harms to the individual and society. This means that resources are more heavily directed at such substances rather than cannabis. Problematic cannabis users usually do not require, or do not present themselves, for clinical treatment or services, and do not pose the same risks in the way that the alcohol-fuelled night-time economy does. As such, policy selection and management is more about education and prevention at the local level:

‘...we are struggling in order to cope with managing the substances that put a much greater degree of pressure on public services... as far as cannabis is concerned we make all services available, we provide the education and prevention, but we’re not going out proactively trying to identify more people to come into services because of their cannabis use when our resources are already as stretched as a result of the other substances.’ (EW-CS-H1: Substance Misuse Policy Worker, Cardiff and Welsh Government)

The reality is that there exists a paradox in the policing and management of cannabis and cannabis-related issues. That is, to follow a strategy of proactive law enforcement and treatment with cannabis users would create a huge burden across the criminal justice system and treatment agencies which are largely seen as ineffective and wasteful. The perception of the 2009 reclassification at the local level is that existing practices were not affected significantly. Placed within the context of a health dominated substance misuse field in Wales, the talk and decisions suggest that the police act as ‘street level bureaucrats’ (Lipsky 2010) who bend and rework official policy and guidelines to fit the circumstances they face.

Thus, whilst there was no official resistance against the 2009 reclassification from the local level, again correlating with the broader Welsh position, the possibilities for resource management within relevant agencies is still an important component in understanding the overall significance of the reclassification. It is suggested that unofficial talk and decisions have channelled cannabis policy decisions in a way which accords with the political and technical feasibilities of policy in Wales and at a local level. However, what is less clear (due to the research design) is whether other subnational polities in England deflect punitive forces in a similar fashion despite the lack of a Welsh ‘buffering’ mechanism.

5.5 The Political Stream

5.5.1 The National Political Stream

The final component of Kingdon's model concerns the political stream. Already, several themes have been developed which have touched on innately political aspects such as the fears and needs of politicians to appear tough on cannabis. The purpose here is to contextualise these characteristics through an examination of political factors existing at the national level that were concurrent during the run-up to the 2009 reclassification, notably, 'changes in administration', the 'national mood', and 'organised political forces'.

Changes in Administration

One of the most obvious and significant aspects concerning the reclassification relates to those who were in power during New Labour's tenure in government. As has been noted, the individual characteristics of ruling politicians are a fundamental component in the decision-making process. But importantly, this is arguably further bolstered in a political system where one party takes office, and this point becomes sharper after considering developments in the Netherlands.

Returning to the 2004 reclassification, which was the key catalyst for its eventual return to Class B, much importance was given to the role of David Blunkett in driving forward the change to Class C⁵⁵. The ability of Blunkett to push forward his preferred policy was made possible under the leadership of Tony Blair for varying reasons. The Labour Party had come into power under a reinvented guise having been out of power for 18 years with the self-projected image that they had made a break from the old 'soft' Labour on issues of law and order. This is again conditioned by an adversarial political culture and a politicisation of law and order.

When Labour came into power in 1997, an intensive focus was on the link between drugs and crime, and especially with Class A substances such as heroin and cocaine that were causing significant amounts of harm (see Chapter 3.3.2). The reclassification to Class C became acceptable under Tony Blair because of favourable media pressure for reform and the rationale that this would allow police forces to redirect resources away from what was

⁵⁵ '...almost one of the first things he said was, I want to reclassify cannabis from B to C, or I'm going to more likely was his phrase' (EW-CS-CJ2)

considered as a relatively benign substance at the time, and towards tackling Class A substances. In addition, Labour had safely secured a landslide majority in the 2001 general election⁵⁶, thus giving room for more controversial policies to take shape, and other significant events started to occur at around the same time, with Blair distracted by the hugely controversial Iraq war.

Whilst it is almost impossible task for a social scientist to unravel the entire inside workings and deals that occur in government, it is very significant to note that the 2004 reclassification was done without the full support of New Labour, with the perennial political fear of appearing 'soft':

'I think it was messaging more than anything else, what is this saying about Labour's approach to crime and order. It looks as though we're being soft and therefore we're giving the Tories their rightful position as many have seen as being tough on law and order issues, and something like that, it confirms the caricature that people have got of New Labour on law and order, and Tony Blair in particular, I think wanted to be seen as being tough and law and order was one of his main interests, and within that, he had a strong focus on drugs policy.' (EW-CS-CJ2: Former Senior Home Office Civil Servant)

The importance of this is that without the full support of those in power, and drawing upon dominant norms and values inherent in drugs policy, the reclassification to Class C was never based on secure foundations. Thus, when suitable actors occupied key positions, the classification of cannabis was used as political cannon-fodder:

'I think what changed was the political climate. This was never a reform that New Labour was particularly committed to. It wasn't something that New Labour particularly wanted to do in the first instance... Not reclassifying cannabis became an embarrassment... When the political situation changed, and they needed a quick win and they wanted to be seen as being in control of things, and the whole tough on crime thing, I think it was just a hostage to fortune to that to be honest.' (EW-A5: Academic Expert in Criminology)

Before, it was mentioned that when Charles Clarke became Home Secretary the possibility of reversing the 2004 decision manifested itself, with Ed Balls stating on the election night of 2005 that the government had to learn from its 'mistakes' of 'cannabis... Iraq' (Sare 2009). However, Clarke chose to keep the classification the same. This decision was seen as partially

⁵⁶ The Labour Party won 413 seats, Conservatives 166, Liberal Democrats 52, and other parties 10 seats.

fuelled by his own characteristics in the sense of respecting advice, but wider political developments were viewed just as, or if not more, important in influencing the decision.

The timing of Clarke's call to review the classification in 2005 in the midst of pressure to respond to growing problems was in the context of an upcoming general election. According to some participants, Clarke's decision to follow the ACMD's advice was a close one, and given Clarke's earlier feelings towards the downwards reclassification it seems apparent that he was in favour of reclassifying to Class B:

'When I handed in the report in 2005, we declined to reclassify, he said this wasn't the report that I wanted, but he said that you made the case so strongly and so clearly that I have to accept it.' (EW-A-AC-H2: Former Chair of the ACMD)

However, with more politically urgent issues going on such as the Iraq war and issues surrounding immigration policy, it was possible for Clarke to defer the reclassification, and could use the recommendations from the ACMD as scientific legitimacy that this was the right decision to make.

After Clarke was replaced by John Reid as Home Secretary in 2006, the classification issue did not surface again until there were further changes to the Cabinet following Tony Blair's resignation and the rise of Gordon Brown and Jacqui Smith. Before examining in more detail the precise nature of this new dynamic, the rapid turnover of Home Secretaries during New Labour's term in office is noteworthy. The consequence of having so many Home Secretaries is that with a political desire to make a mark on policy, the focus is on short-term quick fixes rather than longer-term strategies.

This is particularly pertinent within the Home Office, a governmental department which was seen as chaotic, disorganised and resistant to change, and as a result, received much negative attention to the point where it was declared as 'not fit for purpose' by John Reid (Mulholland and Tempest 2006):

'...this is one of the problems with policy-making in this field, that we have had so many Home Secretaries over the last decade, that none of them follow through on things that need long-term longitudinal studies... that's the nature of policy-making I think to a certain extent in this country, that Home Secretaries come in almost with a blank slate... I think it's partly when ministers come in and they don't want to be captured by the civil service. The Home Office has got a particular reputation in this field I think of having an ethos which radical ministers, whether they are of the right or centre-left, find particularly suffocating, and they want to break. They see themselves almost as against their officials... With that kind of culture, you

are not going to get very much continuity of policy, quite the opposite.’ (EW-NGO2: Third Sector Organisation)

This need to try and distinguish oneself from what happened before is a key element of political manoeuvring and is further compounded by the relatively short terms of office which politicians serve, thus indicating how such mechanisms, generated through the structural and cultural environment of governmental decision-making in England & Wales, can facilitate knee-jerk reactions within a hostile political setting.

Such tendencies became extremely relevant when Gordon Brown became Prime Minister in 2007. The tension and disagreements between Blair and Brown became a focal point of New Labour’s rule during the mid-2000s, and when Brown eventually succeeded Blair this created a slight sense of a dearth in political legitimacy given that Brown was not democratically elected as Prime Minister. For many participants, the change in power opened a space in which Brown had to show and prove that he was a strong and capable leader. This was in the context of much media criticism levelled against Brown and pressures to hold a general election.

Gordon Brown assumed power on the 27th June 2007, and in the following month he made the announcement to revisit cannabis classification. The immediate focus on cannabis classification could be seen as a way of ‘making a break from the past’, and as noted previously, this coincided with reversals on other morally-pungent policy concerns of ‘super casinos’ and alcohol licensing. Alongside Brown’s own personal moral preferences, concentrating on these issues became a way in which he could distinguish himself from Blair, to redefine the contours of the Labour Party:

‘I think he probably wanted to distance himself from Tony Blair and New Labour. Gordon Brown was an architect of New Labour but perhaps never as comfortable with it, certainly because basically New Labour became Tony Blair’s bag not his.’ (EW-POL5: Former Chief Constable)

‘You look at the issues that he chose to try and reverse what had been done, they were issues that he didn’t have a huge amount of involvement with at the time, and this was to put a stamp, a rebranding on what his version of New Labour was like.’ (EW-NGO-AC: Independent Drugs Policy Organisation and Former ACMD Member)

Trying to establish political legitimacy through the reclassification was important for Gordon Brown, and it is worth examining the relationship between Brown and Jacqui Smith who

became Home Secretary at the same time Brown became Prime Minister. Importantly, it was noted that Smith was characterised as being a weak Home Secretary who simply followed the wishes of Gordon Brown and was more prone to media influence than those that had preceded her:

‘I thought Jacqui Smith was a deficient Home Secretary... she was unable to project complex arguments or even to withhold it I think.’ (EW-CS-CJ: Former Senior Home Office Civil Servant)

‘...the one Home Secretary whom I found particularly unhelpful was Jacqui Smith... She wasn’t really interested in the evidence, she was wanting to do the bidding of the Prime Minister.’ (EW-A-AC-H2: Former Chair of the ACMD)

‘...you have got a Home Secretary, Jacqui Smith, who was not very self-confident... media influence was always going to play quite an influential role.’ (EW-A3: Academic and Former BBC Home Affairs Correspondent)

Indeed, such depictions were later substantiated, both by Gordon Brown who suggested in the Leveson Inquiry that ‘...I may say that probably I used my position to persuade members of the government who were not as keen on that policy as I was’ (Leveson Inquiry 2012:72), and by Jacqui Smith who after leaving public office broadcast a radio programme entitled *Stoned Again* (2012) where she suggested that the reclassification may have been a mistake. In attempting to explain why Brown as Prime Minister became, and to an extent was allowed to become, so involved in the cannabis issue, it was suggested that by the time these events were unfolding, the government was ‘old’, and as such it became more prone to orders from the top:

‘...when governments get old... they become less functional. Ministers become of a lower quality and more compliant to direction from the very top.’ (EW-CS-CJ: Former Senior Home Office Civil Servant)

Whereas Tony Blair seemingly gave more room to Home Secretaries, Brown was much stricter. So with Brown’s strong moral convictions and utilisation of power, there was little resistance. That is not to say that there should have expected to have been resistance at this moment in time given the favourable context in which these developments were occurring. This was an ‘easy’ ‘quick win’ policy for an old government in decline and in need of popular support after critical changes in administration. Sensing a critical ‘national mood’ towards cannabis, the New Labour administration took advantage and sought to maximise their image

as being tough on drugs. There is a crucial factor that bears relevance here, and which will become more apparent when considering the comparison with the Netherlands, that such developments allude to the powers to govern in a majoritarian political system that tends to lead to single-party government. With a majority in government, the Prime Minister was able to play a fundamental role in the shaping of policy with little political opposition. This contrasts with a system of proportional representation which guarantees coalition governments, effectively forcing a more balanced share of power between coalition parties which at particular moments can serve as a protective factor against punitive forces.

The National Mood

Turning to look at the national mood and many of the themes have already been touched upon. It seems that the national mood had turned against cannabis following the 2004 reclassification, and a fundamental component of this was situated in the confusion that had ensued (see Warburton et al. 2005). In a broader sense, there is pressure from the public and media to produce simplistic policy solutions which tackle difficult and complex problems. In light of the perceived failures of the 2004 reclassification and the growing problems attributed to cannabis, the reclassification back to Class B was seen as a simple decision which *prima facie* attempted to deal with the 'ontological insecurities' of the public (Giddens 1990; Garland 2001).

In the midst of increasing concerns, it was seen as an attractive option due to the potential support from the public and the increasingly critical media. The problematisation of cannabis seemingly had split opinions, with even the Independent newspaper (which started a campaign to decriminalise cannabis in 1997) saying that they had got it wrong (The Independent 2007). As such, the lack of critique towards the proposed reclassification to Class B reduced the political damage (or increased the political feasibility) of such a move.

Significantly though, and given the somewhat mixed views of the public towards cannabis, the issue of cannabis classification became a way for the New Labour administration under Brown to attract the voter confidence of a key demographic, that of 'middle England'⁵⁷:

'It probably served the broader purpose of trying to connect with middle England or that base that Tony Blair had in his pocket, just by virtue of who he was and how he looked and came

⁵⁷ See McLaughlin (2002:52-54) and Stenson (2002) for some discussions around New Labour and 'middle England'.

over. He had that constituency wrapped up, Brown never did. Brown was an outsider, he was a Scot, he appeared to be morose and gruff. If he could pursue a policy on drugs that was somehow in tune with that Daily Mail middle England constituency then clearly it did, for him anyway, it had a broader purpose.’ (EW-A3: Academic and Former BBC Home Affairs Correspondent)

In this way, the reclassification of cannabis was used for political means to gain support after Brown came to power. In particular, it chimed with the feelings of conservative voters and the right-wing media which had been critical of Brown and the 2004 reclassification. New Labour was predicated on finding a ‘third way’, of tapping into a section of voters which it had previously alienated due to class allegiances, whilst retaining its core. Blair had successfully done this in many regards (‘tough on crime, tough on the causes of crime’ for example), and with Brown in power he felt it necessary to appeal to such a demographic.

In this sense, the national mood was not one of a general consensus towards cannabis, but reflected the fears and concerns of particular segments of the population. The tabloid media is seen as a key driver of policy concerns within this context, with policy being much more reactive than following a rational process:

‘...newspaper readership has been very high in this country and therefore has thought to have a strong influence... there is still a hangover within government, that view remains, if the *Daily Mail* takes a particularly strong line on an issue, then this is something we have got to take very seriously in terms of policy.’ (EW-A3: Academic and Former BBC Home Affairs Correspondent)

‘...one of the difficult things to get across is just how illogical some of the [policy] processes are. A view from outside is that a government creates a manifesto in opposition, comes in, has got firm ideas on how it’s going to deliver them, either it delivers it or it doesn’t... they don’t really understand just how frail the underpinning processes are at times, and how it is that people can influence at a political level can pop in and out and change the process.’ (EW-CS-CJ2: Former Senior Home Office Civil Servant)

Importantly, given that cannabis and drugs policy is marred by a hugely complicated, and sometimes contradictory, evidence base, the contested nature of evidence opens up a space for criticism to foster from the opposition (again fuelled by political needs in an adversarial and conflict-driven style of government). Moreover, this then gives the media a greater role in influencing the issues to respond to, and the ways in which they *should* be responded to:

‘It does infect the public discourse on issues that are very tricky like drugs issues... particularly issues where there is a lack of robust, reliable evidence... There is a lot of polemic, but there is not a lot of really solid data. In a situation like that, I think the media can have a very strong influence.’ (EW-A3: Academic and Former BBC Home Affairs Correspondent)

In talking about these developments with participants, one controversial narrative emerged which suggested that Brown made a deal with the editor of the *Daily Mail*, Paul Dacre, that if certain policies were pursued then such media outlets would be softer towards Brown:

‘...when Gordon Brown took over from Blair, Brown is reputedly done a deal with the *Daily Mail* that the *Mail* would support him’ (EW-A-AC-H1: Former Chair of the ACMD)

‘It was too neat, and the speed at which the *Daily Mail* responded with its editorial saying what a brave man’ (EW-A2: Academic Expert in Criminology and Former Home Office Researcher)

‘Paul Dacre of the *Daily Mail* had a fairly close relationship with Gordon Brown for a time, and I think they both had this strong moral view that drugs were an evil, and that they were going to form an unholy alliance to make sure that there was no further liberalisation on drugs policy.’ (EW-A3: Academic and Former BBC Home Affairs Correspondent)

These claims are virtually impossible to verify or falsify without an unlikely confession from either party, with such deals ‘done in restaurants we never go to’ [EW-A2] as one academic noted. Indeed the relationship with the *Daily Mail* as an influencer over cannabis classification was denied by Brown in the Leveson Inquiry in favour of his own moral beliefs (see Leveson Inquiry 2012:71-72).

But whether it is true or false is not the point of interest here; rather, it is clear that such a move had political ramifications in that it was a policy which was supported by the right-wing media⁵⁸, and in that sense, it served the political purpose of establishing Brown’s credentials amongst a demographic which was highly contested. Interlinked with this particular demographic is the notion and role of concerned mothers which was highlighted previously in the construction of policy problems. Appealing to these moral entrepreneurs was thus of central concern for New Labour, to appease their fears about cannabis:

⁵⁸ See a piece in the *Daily Mail* (2008) published one day after the announcement by Jacqui Smith in the House of Commons, entitled ‘*Gordon Brown made a brave and justified decision on cannabis*’.

‘I think the issue of classification became totemic. I think it became totemic for people on my side of the debate... People like Mary Brett for instance. They were so angry at the down classification that they had to really push, and of course the press correspondence got louder and louder, and the government really got into some difficulties.’ (EW-NGO1: Former UKBA and Member of National Drug Prevention Alliance)

In some senses, the reclassification had a very cynical angle to it. The reclassification was not targeted at cannabis users per se, who are largely disenfranchised and marginalised from the political process, but it was more important as a symbolic gesture for concerned parents and the right-wing media:

‘Ultimately these conversations about saying that the strength of cannabis, that sort of stuff, the politician will do his press release, do his TV, and maybe a bit of parliament, and then very self-consciously hoping for favour of courage in certain media outlets which is read by the parents of the people taking the substances, and the young people themselves aren’t part of that conversation, so it’s a really futile exercise. It’s not impacting on behaviour, it’s not reaching into their lives and experiences, it’s a two-dimensional farce really.’ (EW-CS-CJ: Former Senior Home Office Civil Servant)

There was recognition by critical participants that drug classification makes little difference to young individuals, and often those who have experimented with illicit substances have different realities to the harms projected by the state. So whilst one of the dominant purposes of reclassifying was to send a ‘message’ to young people, the real message was to be sent to worried parents that Gordon Brown’s New Labour was responsible and authoritative on difficult issues. Importantly, it appealed to those who are more likely to vote, rather than the politically disinterested youth. Moreover, the importance of policy symbolism (talk) over substance (decisions) can be further evidenced in the fact that the changes to legislation and police guidelines made *no* difference to the treatment of young ‘offenders’. So for all the policy talk emphasising the need to protect young individuals from cannabis, it seems that the change in legislation was designed as a reassuring mechanism for parents’ ontological insecurities regarding cannabis.

Organised Political Forces

Thus far it has been argued that the role of the media was extremely significant in putting the issue of cannabis classification on the policy agenda, but it was the combination of a variety

of individuals and groups which formed a loose set of policy entrepreneurs, and the lack of influential critique, which allowed the reclassification to Class B to occur without major contestation:

‘In the end the power of the conservatives prevailed, and it’s not because those commentators had the most power, it’s because those were the sorts of stories, the sorts of stories that were being told by the conservative advocates fitted with the ways that politicians wanted to use the power that they have, to sure up their own political and ideological positions.’ (EW-A1: Academic Expert in Criminology)

This set of actors was at least comprised of the Conservative party, mother’s groups such as those headed by individuals such as Mary Brett and Debra Bell (see section 5.3.1), doctors and psychiatrists, and ACPO. Latterly, ACPO broadly supported the reclassification, but it is important to note that ACPO is a relatively disparate organisation consisting of a ‘broad church’ of views towards the policing of cannabis with the general perception that the effect of the reclassification was fairly negligible:

‘...the view was reclassification may send out a clearer message to young people that this is not a drug without consequences, without harm, and that broadly we supported the direction of travel. Would we have lost any sleep at all if it hadn’t been reclassified? No. Would it have made a lot of difference to how we operate? No, to be perfectly candid.’ (EW-POL4: Former Chief Constable and ACPO Lead on Drugs)

Located within the ‘institutional rationalities’ (Townley 2008) of law enforcement, the reclassification did not challenge or serve as a detriment to existing practices, but only increased their power as legitimate owners of the problem. The combination of all these ‘political’ factors – changes in administration and the need to appear tough on drugs; the personal characteristics and views of those in power; and the support (or lack of influential critique) for reclassifying by a wide range of influential individuals and agencies who campaigned to put (or retain) the issue on the policy agenda – contributed towards the decision to reclassify.

Cannabis had been sufficiently problematised to warrant a reversal on a policy introduced by the same political party, and this fitted with dominant values and moral preferences which was politically beneficial for Brown and his colleagues. In this way, the 2009 reclassification could be considered as a knee-jerk type reaction from the government against a perceived mistake of downgrading to Class C. The ‘process’ was not about searching

for the most rational, evidence-based solution to a set of concerns, but rather was intended to send a message, to a key demographic, that the government was strong in the face of perceived adversity. The government were antagonised by a 'rapacious' [EW-NGO2] and adversarial media and political context which tormented Labour's capability of being tough on law and order, a domain traditionally occupied by the Labour Party's nemesis, the Conservative Party.

5.5.2 The Subnational Political Stream

The final section returns to examine how the political stream operated in relation to the subnational level. Due to the fact that local authorities are in many ways incapable of affecting official change to cannabis policy, the discussion is focussed more on the political dynamics between the Welsh Government and Westminster. As was suggested in the *subnational policy stream*, the role of Wales in the 2009 reclassification was largely absent, with the change being directed by the then Prime Minister Gordon Brown. But alongside a lack of an influential voice willingness to speak against the change, it is also possible to point to another factor which conditioned the overall response and lack of official resistance towards it from the Welsh setting.

Due to the ingrained acceptance of cannabis as an illicit substance, the politics of crime control evident in England is in some ways equally applicable to the sensitivities and anxieties of Welsh politics. This is not so much in relation to pressures from the Welsh media, with one senior political figure noting that '...the media reaction in Wales doesn't matter very much because there is almost no in-Wales media' [EW-P1], and that there is very little attention paid from national newspapers to Welsh Government issues. However, the political anxieties relate to the potential threats to the legitimacy of the devolution project if one was to attempt to divert from the orthodox position, thereby further blockading the potential for policy movement beyond the options contained within the dominant approach.

Of course, such movement would not be viable anyway given that laws cannot be amended on substance classification in Wales, but the point is that even if policy movement was available (for example, through an explicit policy of non-enforcement), such policies are not advocated as potential policy solutions that are seriously considered by decision-makers at a strategic or political level in Wales. This is particularly conditioned by the relationship between Welsh Government and Whitehall, and so there is a sense that the Welsh Government has to be 'tentative' in the 'fights to fight':

‘...we have a series of difficult discussions that go on between ourselves and Westminster Government, would we choose to add this one [substance misuse] to the list? I think probably not, because the other things that are on the list, are, you could argue in some ways are more pressing... you always worry that if you introduce another argument into that you will lose ground on some more important ones... How could you possibly give those people those powers to do that when they’re asking for this mad thing over here?’ (EW-P1: Senior Political Figure)

The transferral and utilisation of powers from London to Cardiff is still in its relatively early stages, and so there is a lack of willingness to engage in a highly contested area which could compromise the granting of powers and laws in other areas. A further political aspect worth considering in the context of the 2009 reclassification was the relationship between the specific administrations of Wales and the UK. At the time of reclassification, both governments were controlled by Welsh Labour and New Labour, and so to challenge such a policy measure would have resulted in political problems for both governments, creating the suspicion of in-fighting:

‘...when there was a labour government at both ends, it was trying to find ways of explaining difference that minimise what was sometimes genuine differences of view behind it... If the Tories are in charge who cares?’ (EW-P1: Senior Political Figure)

In sum then, the place of Wales and local case site in the political stream was largely as a passive observer, with little interest in ‘rocking the boat’ with regards to the reclassification. In one way, a lack of apparent interest was conditioned by similar political pressures not to put its head above the parapet, with bigger priorities and ‘fights to fight’ in relation to devolution. There is an important aspect that Wales is attempting to construct and build a reputation as a legitimate political enterprise, and anything which might be seen as too contentious could potentially threaten this project, even if policy alternatives outside of current paradigms may lie in greater accordance with the health-oriented projection of substance misuse policy in Wales.

5.6 Summary of the Policy Process in England & Wales

Kingdon’s Multiple Streams model has allowed us to reconstruct how the reclassification of cannabis to Class B in 2009 was made possible through a coupling of the problem, policy, and

political streams. The coupling of the three streams occurred within a suitable window of opportunity. The policy 'alternative' to reclassify back to Class B was immediately placed in the primeval soup once cannabis had been reclassified to Class C and simultaneously became attached to a set of emergent and resurfaced problems regarding criminal justice, public order and mental health. Such problems were driven forward by a series of policy entrepreneurs which campaigned to keep the issue of cannabis classification on the policy agenda and accused the government of being soft and reckless. The policy and problem streams then became coupled with the political stream in which suitable actors occupied positions of power who instigated the change in classification. It is contended that such a move was beneficial in generating perceived legitimacy for an incoming Prime Minister (and Home Secretary) lacking support and credibility with a key demographic, conservative 'middle England', at a crucial time for New Labour.

The reclassification was not the culmination of a search for the most rational and pragmatic response, but instead it was a policy change which was constructed as a correcting force and a break from the past under the leadership of Gordon Brown. In sum, the 2009 reclassification of cannabis in England & Wales illuminates the somewhat erratic nature that the policy process can assume. Such a knee-jerk response was facilitated by a series of factors: cultural (political values and politicised environment), institutional (adversarialism and short-term posts) and situational (agency of key actors).

In terms of how this policy change unfolded into the subnational sphere, it is notable that because the reclassification was arguably largely symbolic, there were hardly any discernible changes. More important was the removal of centralised performance targets which perversely incentivised police officers to target simple possession offences.

At the subnational level there are key points of convergence and divergence. In the former sense, this predominantly refers to the proliferation of problems articulated at a national level and the narrow-minded politicised field that cannabis policy operates in. Alongside a very clear point that Wales, and local authorities, do not have the *capability* to *overtly* resist or challenge policy change in this area in a meaningful way, there is a sense that doing so in the context of Wales and devolution would be potentially damaging for political legitimacy. However, this is not to say that policy is not reworked at a local level, with evidence that there is a 'tacit' acceptance of the possession and consumption of cannabis, with services being more pragmatic towards its use and diverting resources to other problems deemed more pressing. The more 'sympathetic' and health-oriented approach apparent in participant and documentary narratives could be an important mitigating factor off-setting the effects of repressive policy changes. Although, as will be discussed in Chapter

7, further research is required into this claim given the lack of comparison across subnational sites in England & Wales.

The lack of official policy contestation between national and local spheres is a primary point of difference across England & Wales and the Netherlands, and in the latter case, the role of the local is seen as a fundamental component of the overall policy process. Next, we turn to examine these dynamics in the analysis of the policy process in the Netherlands.

Chapter VI

The Policy Process in the Netherlands

‘De soep wordt nooit zo heet gegeten, als zij wordt opgediend’

[The soup is never eaten as hot as it is served] (Dutch proverb)

6.1 Introduction

The purpose of this chapter is to critically assess the role of each of Kingdon’s (1995) problem, policy and political streams in accounting for policy change at the national level in the Netherlands, whilst also providing an ‘embedded’ case analysis of how each of the policy streams related to a subnational case site. This again relates to three of the study’s research questions: to reconstruct how policy responses came into existence (RQ1); to examine the extent of policy convergence or divergence between national and subnational levels of governance (RQ2); and to preliminarily identify factors and mechanisms which condition current policy responses (RQ4). This then provides an apt context in which to provide a cross-case analysis of the extent of policy convergence or divergence across two polities as a whole (RQ3), which shall be the substantive focus of the final analysis chapter. For a key denoting participant positions, please refer to Table 4.2c in the Appendix.

6.2 Amendments to the *Gedooogbeleid* in 2012/13

The empirical focus of the Netherlands is in many ways vastly more complex than that of England & Wales, which included a number of stricter coffeeshop measures, introduced under the Rutte I government and then revised under a second government, Rutte II. Although considerations were given to revising coffeeshop policy under the preceding Balkenende IV government, it was under the Rutte I coalition, comprised of VVD, CDA, and PVV, that proposals to introduce three new coffeeshop criteria were formulated (see Table 6.1). These changes refer to a series of modifications made to the Opium Act through various directives which affected the Public Prosecutor’s ‘Instructions’ (*Aanwijzing*). In other words, these are the ‘tolerance policy’ rules by which coffeeshop proprietors can be exempt from prosecution.

As can be seen, the proposed changes to the coffeeshop tolerance policy were quite complex, with a packet of measures, two of which were to be trialled in the three southern

provinces with a later national introduction (private club and residency), and then a further measure (school's distance) to be introduced in 2014.

Criterion	Details	Introduction Date
Private Club (<i>Beslotenclub</i>)	Users to register at a coffeeshop; maximum membership of 2000 individuals per coffeeshop	<u>May 1st 2012:</u> Trial in Limburg, Noord Brabant, Zeeland <u>January 1st 2013:</u> National introduction
Residency (<i>Ingezetenen</i>)	Access to coffeeshops is restricted to residents of the Netherlands (NB. <i>not</i> according to nationality)	<u>May 1st 2012:</u> Trial in Limburg, Noord Brabant, Zeeland <u>January 1st 2013:</u> National introduction
School's Distance (<i>Afstand</i>)	Minimum distance of 350m between main entrance of secondary/vocational schools and coffeeshops	<u>January 1st 2014:</u> National Introduction

Table 6.1 Summary of planned modifications to public prosecutor's guidelines, 2011. Adapted from: Tweede Kamer (2011a; 2011b; 2011c)

But after the fall of the Rutte I Government during 2012 following the withdrawal of support from Geert Wilders' PVV over proposed economic cuts (van Holsteyn 2014), a new government was formed between the centre-right VVD and the centre-left PvdA. At the time that Rutte I was dissolved and Rutte II established, the private club and residency criteria were being trialled in the three southern provinces whilst the school's distance criteria, whilst it was contained within the prosecutor's guidelines, was not due to come into force until 2014.

With the shift in government, greater flexibility was granted to municipalities in enforcing the revised coffeeshop policy, as signified in the intentions to allow for '[p]hased enforcement and an approach tailored to local circumstances' (Tweede Kamer 2012:2, official translation). Additionally, the Ministry of Security and Justice requested that municipalities send in their plans for enforcement of the residency criterion, as well as any other plans for cultivation experiments. This marks a slight retreat from the rhetoric of Rutte I and in some ways suggests a loosening of the original approach. But whilst there were signs of a retreat from repressive measures, the Rutte II cabinet also announced its intention to classify high-potency cannabis as a 'hard drug' under Schedule I of the Opium Act.

The actual policy decisions of the Rutte II cabinet largely followed the rhetoric of a 'mellowing out' of the original policy measures. At the time of writing, the plans to reclassify

certain forms of cannabis as a hard drug have not yet come into fruition and face significant challenges in passing through legislature. The school's distance and private club criteria were removed from the tolerance policy, which left only the residency criterion intact which was introduced nationally on 1st January 2013.

6.3 The Problem Stream

6.3.1 The National Problem Stream

The construction of cannabis as a problem in the Netherlands shares many similar features to that of England & Wales, but also differs significantly due to the historic policy of tolerating coffeeshops. The main issues that came to the fore in Rutte I are centred around four key problematisations as a: criminal justice problem; public order problem; health problem; and a social and moral problem. However, following the introduction of the closed club and residency criteria trial and the change in government in 2012, problem definition shifted which positioned the policy changes as themselves problematic.

Cannabis as a Criminal Justice Problem

Problems relating to cannabis as a criminal justice problem stem from the legacy of existing policy and practice which allowed for organised networks to become heavily involved in the production and supply of cannabis to coffeeshops and abroad. By effectively allowing for the growth of a *de facto* legal selling point in the shape of coffeeshops, there was little consideration of growing European harmonisation and migration following the erosion of border checks after the Schengen agreement. The growth of foreign visitors has become problematic by creating pressure on coffeeshops to supply increased demand, which fed into an entrepreneurial spirit of coffeeshop owners looking to maximise profits. The increase in demand, especially in some southern border municipalities, meant that coffeeshops such as Coffeeshop Checkpoint in Terneuzen, which according to some reports had approximately 3000 daily customers (Volkskrant 2008), '...became an illegal criminal paradise' [NL-P2]. As such, the consensus across participants and in the expert committee van der Donk was that organised crime has gradually become the dominant force in cannabis cultivation since the late 1990s:

‘It is not that they wanted, but they are forced to do it because if you sell, you have a big coffeeshop and have a lot of customers, you need a lot of cannabis and those criminal organisations can give that to you.’ (NL-A-NGO2: Independent Research Organisation)

‘Drug tourism in the border areas and in large towns and cities... has risen sharply, fostering large-scale cannabis production and trafficking in this country. Such operations have also developed into major, innovative enterprises.’ (Advisory Committee on Drugs Policy 2009:19 official translation)

But what is also important to consider in the purported growth and dominance of organised crime in cannabis cultivation are activities relating not only to coffeeshops, but more broadly with importation and exportation. It was postulated by the police that due to the vast amounts of cannabis estimated to be grown in the Netherlands it was inconceivable that this was all destined for coffeeshops and Dutch users (see van der Giessen et al. 2014):

‘...we said there is around 25,000-30,000 plantations at this moment. We dismantle about 5,500 every year only in the Netherlands... In the approximation we made, and it is always difficult because there is no scientific proof for it, we said that between 60-90% of cannabis is going for export.’ (NL-POL2: KLPD and Organised Cannabis Cultivation Taskforce)

However, to some extent this is not a new problem given the historical importation of hashish, but the problematisation of cultivation and supply has risen in part due to the changing nature of the ‘threat’. Whereas in the earlier days of cannabis *gedogen* threats related to cannabis were largely seen as exterior to the Netherlands in that domestic cultivation was small-scale, conducted by the stereotypical image of the peaceful hippie, with most cannabis, and harms, coming from abroad. However, with the transition to greater domestic cultivation the threat became enlarged; no longer was the problem an uncontrollable element of globalisation, but the Netherlands was now encountering an internal and domestic challenge.

These activities are seen to be conducted by social ‘undesirables’⁵⁹ and one of the central problems with the shift towards serious criminal organisations and networks is the associated activities, effects and symptoms that are present in society. It was noted that this new shape in the backstage of the cannabis industry was characterised by ‘tough criminality’

⁵⁹ ‘When you see what they find it is quite shocking, a lot of money, they find weapons, and there is a lot of gypsies, those parts, strong family structures and almost every park is related to cannabis in Brabant’ (NL-A-NGO3)

and 'strong individuals' [NL-POL1], prominently associated with violence and other illicit activities such as human trafficking and 'hard drugs':

'...we have a lot of murders, we have a lot of torturing, we have a lot of assaults just around cannabis... organised crime isn't only cannabis plantations, it is also synthetic drugs, ecstasy, cocaine, human trafficking. But all these facts are together in organised crime, and cannabis plantations are most [of the] time used to earn money to support the other organised crime.'

(NL-POL2: KLPD and Organised Cannabis Cultivation Taskforce)

Media representations and police activity emphasised the seriousness of the problem, but effects were also felt in the public sphere. No longer was cannabis seen as an innocent drug, but one associated with hardened criminality and violence. Another risk associated with serious organised crime is highlighted, that of corruption:

'...they are also influencing our society, our living. They put money in all kinds of stuff... We had a big coffeeshop in the south, it was closed. It had 2300 customers a day [Coffeeshop Checkpoint]... it is strange that the local government is earning a lot of money out of it, they make special parking places. So in the end they were even accused of being a part of the criminal organisation.'

(NL-POL2: KLPD and Organised Cannabis Cultivation Taskforce)

Another important aspect in relation to the problem of cannabis cultivation is the manner in which such activities are conducted. Similar to the situation in England & Wales, the development of advanced agricultural growing techniques, combined with less risks of domestic cultivation, knowledge of selective breeding of cannabis strains, and an entrepreneurial and globalising spirit of growers and coffeeshop owners, has led to the development and growth of stronger, domestically produced cannabis. However, it was noted by many participants that such developments are not new⁶⁰.

⁶⁰ 'In 1991 for the first time in Holland we grow nederwiet. Before it was only the foreign hashish from Morocco, Afghanistan. In the '70s and the '80s many people were growing their own weed but it was nothing... then the commercial production of Dutch wiet became that quality that the coffeeshops started to take it in their menu. For me, that was also a sign of the time... you saw the pubs, the neighbourhood pub, the pub for the gay, the pub for the lesbo, the pub for the football fanatics, a huge change in choices of beer, wine, cocktails, genevas, whiskey. That change was also part of the multicultural society, we want to have more choices... The modern coffeeshop, he wants to have different types of cannabis from Afghanistan to two streets further where it was grown in the garden.'

(NL-A-NGO1)

'When I started my career in drugs in 1988 we already had at that moment cannabis plantations only in a small amount... you see that there is a change of course. What has changed is the amount. Of course the technique has changed, but if I am looking to the last 5, 6 years, it technically hasn't changed that much.'

(NL-POL2)

In addition to this, cultivation is perceived to exist across the whole country in various different types of locations (e.g. underground sea containers; secluded farm land), creating difficulties in police detection. The relative ease of cultivating cannabis has led to a threat which potentially exists anywhere and everywhere. The way the problem is framed to citizens is in a way which affects their crime consciousness. It is seen as a safety issue, drawing attention to potential fire hazards involved in cultivation. This concern is particularly enhanced given the relatively condensed population to living space ratio in the Netherlands.

This brings us to the final element of how cannabis is problematised as a *criminal justice problem*. With the unavoidable and intimate connection between some coffeeshops and large-scale growers, the image of the coffeeshop has been tainted from what was once considered a 'normalised' tolerable outlet to being as so far as intrinsically criminal organisations. But an unresolved issue remains with how coffeeshops acquire the products they are to sell. With the 'burden' [NL-A-AC-CJ] of foreign visitors creating more demand for cannabis, the ability to keep within the stock limit of 500g is difficult to achieve, usually leading to the creation of a series of stashes and regular topping-up of supplies:

'...in 2008 we had 14 coffeeshops in Maastricht. We had 2.1 million visitors. From that 2.1 million was 70% coming from abroad, there was 46 from Belgium, 10 from France, 10 from Germany, and it was calculated that there was about 3.9 million visits to coffeeshops so you can imagine that 500g is never enough.' (NL-PP3: Policy Worker, Public Prosecutor's Office Limburg)

This has put significant strain on the *gedoogbeleid*. Having to restock in this way has contributed to nuisance and criminality around coffeeshops, such as 'rips'⁶¹ by rival criminal gangs. The increase in foreign visitors has also raised concerns about other forms of coffeeshop criminality, namely non-tolerated dealing of cannabis and other substances around coffeeshops, and 'drugs runners' operating between the Netherlands and bordering countries.

It has been suggested here that the construction of cannabis as a criminal justice problem is not a new phenomenon, but has developed over time, taken on new meanings, and presented more visible threats in the public sphere. In the build up to the initial changes to the coffeeshop criteria in Rutte I, and a trend which has notably been shifting over the past two decades, is a change towards viewing cannabis through the lens of criminal justice and law enforcement. For some, there has been a shattering of the 'innocence' of cannabis, with

⁶¹ 'Rips' refer to cannabis stocks being stolen by rival groups or individuals.

greater attention by the police and more public awareness and concern. Notably, the establishment of the *Taskforce Georganiseerde Hennepteelt* [Organised Cannabis Cultivation Taskforce] in combination with the national police force, KLPD, has generated increasing evidence of the significant threat that cannabis cultivation poses to national security through a series of reports (KLPD 2008; KLPD 2012a; KLPD 2012b). These are important signifying 'indicators' of a policy problem in need of addressing.

However, one factor influencing the construction of a criminal justice problem was the effects of greater labelling and reacting to a problem. Those from a more critical perspective suggested that the nature of police activity had led to more opportunities for organised crime to develop by focussing on small-scale growers:

'...the individual growers of small plantations in their attics or in their cellars became a very specific point of danger for police and the public prosecutor's office.' (NL-POL3: KLPD)

With more attention and concern paid to small-scale cultivation, often in houses or apartments where there are safety hazards to other citizens, it is suggested that there has been a broader shift towards a tougher approach to cannabis cultivation of all scales. In this way, there is a degree of conflation in the connection between coffeeshops, cannabis cultivation, and organised crime. The problem is constructed as potentially anywhere and everywhere, a lurking threat previously unknown which the government must protect its citizens from.

Despite official attempts to tackle organised crime prior to the changes made under Rutte I, such as the establishment of a specialist taskforce, greater powers for seizing assets, and the proliferation of multi-agency intelligence-led policing efforts, the problem still exists, and if anything, is constructed as having worsened. Problem recognition came from a range of sources, from negative media and public opinion, municipality lobbying, and increased law enforcement efforts which helped solidify cannabis as a policy problem.

Cannabis as a Public Order Problem

The problematisation of cannabis as a public order issue surrounds the notion of nuisance (see Chapter 3). On the whole, coffeeshops are not seen to produce much nuisance due to the tight regulations and possible sanctions if coffeeshops were to transgress the rules. But it seems clear that there is local differentiation of problems which mainly occur as a result of excessive numbers. The 'burden' [NL-A-AC-CJ] of accommodating increased numbers of

visitors to coffeeshops which are often located in the inner city of a municipality has created traffic and parking issues. Although contested as an issue by liberal-leaning participants⁶², for others this was seen as a significant problem for mayors of affected municipalities:

‘...in these border cities here, Rosendaal, Bergen op Zoom, small cities, the mayors came here, we can’t sustain this anymore... all these Belgians and French foreigners who come to our small cities, they are really burdening us in many ways... they just closed down the coffeeshops after years of discussion and years of police efforts to reduce, to limit, to master the problems linked to the huge crowds who came over the border to go to these coffeeshops but buying everything they wanted. And of course the dealers and the pushers around these coffeeshops, they try to sell everything, they are market people.’ (NL-A-AC-CJ: Academic Expert in Criminology and Member of van der Donk Commission)

Again the link between cannabis, coffeeshops and criminality is made, with the notion that coffeeshops serve as a centre for deviant and criminal activities. But important to note is that it was only a small proportion of municipalities with coffeeshops that were affected:

‘...it was only for 6, 7 cities in the Netherlands... Most of the cities in the Netherlands, the 104 cities at the moment that have coffeeshops, and I think that most of them, three quarters or even more, say they don’t have any problems with the coffeeshops.’ (NL-A-NGO2: Independent Research Organisation)

In accounting for why there is such a stark differentiation of public order problems in a small minority of coffeeshops located in southern municipalities, it is relevant to take into consideration the cross-border issues in the Euro-region ‘Maas-Rijn’, which is a ‘densely populated area...one of the most urbanised [in Europe]. It goes through 3 state borders’ [NL-A-AC-CJ]. This compact area, coupled with ease of mobility across borders, has created a hub of dense movement which has contributed to worsening public order issues. The erosion of borders under European arrangements is a key factor in accounting for these changes, but it was noted that the numbers of foreign visitors were not seen as problematic until the turn of the millennium where it is argued they increased rapidly:

⁶² ‘Was there a problem? Yes there was a parking problem with traffic jams... The citizens were only complaining about the parking situation. They didn’t complain about any other acts of the users of cannabis.’ (NL-POL1)

‘Before that [2008], let’s say 2001, 2000, there were only hundreds of people... you see in those beginning years that there were 10,000 people, 100,000, and now in the millions.’ (NL-PP2: Public Prosecutor, Limburg)

So whilst the problem of drug-related nuisance has existed for some time, its political importance at a national level has accelerated over the past decade due to rising concerns from affected local mayors that the sheer volume of visitors was creating problems. Thus, the issue rose in importance and came to be defined as problematic due to the local inability to control or ‘master’ the issues arising from drug tourists in the south. This is an issue which will be explored further in the consideration of policy options and alternatives in the *policy stream*, but a key reason underpinning national policy change under Rutte I was the pressure and call for help by local, and even liberal, mayors who could not deal with these issues within local means of governing. It was the inability of affected local municipalities to deal effectively with problems related to cannabis and coffeeshops that served as a ‘focussing event’ to capture the attention of national government to exert some power from above. In other words, the ‘crisis’ being experienced in these southern municipalities served as a symbol, which ‘...catch on and have important focusing effects because they capture in a nutshell some sort of reality that people already sense in a vaguer, more diffuse way’ (Kingdon 1995:97-98). These negative effects correlated with a deeper and broader set of public and political anxieties concerning cannabis and coffeeshops.

Cannabis as a Health Problem

As discussed earlier, developments in cannabis cultivation have led to the growth of stronger strains of domestically produced cannabis. The development of so-called *nederwiet*⁶³ (‘Dutch weed’) again is not a new phenomenon, but concerns arose with knowledge that the potency of these types of cannabis were increasing rapidly at the end of the 1990s and in the early 2000s (see Appendix, figure 6.1). This period saw a rapid increase in the average THC content of cannabis, with the average THC percentage in *nederwiet* surpassing 20% in 2004 (Niesink and Rigter 2013). This period saw a boost in potency across a variety of different types of

⁶³ Nederwiet has a far less stigmatising name than the equivalent use of ‘skunk’ in England & Wales (both describing domestically produced cannabis). Interestingly, the term skunk was first used to describe the odour of early versions of domestically produced cannabis, whose seeds and farming knowledge were first imported from the USA to the Netherlands in the 1980s, with the genetic development and introduction of ‘Dutch’ strains such as ‘skunk #1’ and ‘northern lights’ (Niesink and Rigter 2012:13).

cannabis, especially in extremely potent forms of Dutch-made hashish (*nederhasj*) which have been shown in some samples to contain over 60% THC (see Appendix, figure 6.2).

The perceived problem of these developments was very similar to that in England & Wales and occurred at around the same time. This is perhaps not all that surprising given the exportation not only of cannabis itself, but also of growing techniques, seeds, and knowledge. But fears and concerns grew that the use of more THC-potent cannabis was linked to mental health conditions, such as the onset of psychosis and schizophrenia⁶⁴.

Among the participants in this study there was a mixture of views about what developments in cannabis potency signify and the harms that are produced forthwith. For one public prosecutor, the description of this new type of cannabis is indicative of the reinvented and reconstructed fears surrounding cannabis:

‘...one of the developments of the last year is that the hennep [cannabis] has increasing THC, so when you blow [smoke/consume] and you think you are blowing soft drugs and it has a high THC amount then it has almost the effect of hard drugs... they say this is very dangerous stuff, you must not misuse it’ (NL-PP2: Public Prosecutor, Limburg)

The view of immediate danger, that this is a continuing, ever-increasing problem with ever-increasing THC, is prevalent here despite trends indicating a longer-term decline in the potency of *nederwiet* since the high point of 2004. This influenced the desires to reclassify cannabis with a THC content of over 15% as a hard drug, with government rhetoric attempting to delineate cannabis according to the artificial legal constructions:

‘Soft drugs must stay soft... Hard drugs do not belong in coffeeshops, and in future these establishments will only be permitted to sell cannabis with a THC content of under 15%.’ (Tweede Kamer 2012:4)

Furthermore, and also drawing parallels with developments in England & Wales, there was a specific focus on youth consumption as particularly problematic. This was symptomatic of a broader and growing negativity surrounding cannabis, supported by a growing research evidence base and changing trends in public opinion towards cannabis:

⁶⁴ ‘...we know more and more from the literature that cannabis is, especially for some groups, dangerous and harmful. So it’s not that innocent as we thought it was... that is connected to the much higher THC level in cannabis now. We did that ourselves because we are producing this *nederwiet* which we cultivated and cultivated in a very nice and more strong product.’ (NL-A-AC-H1)

‘We concluded, point one, cannabis is not so innocent as once had been thought. There have been several studies that say if you use cannabis at a very young age it is damaging to the brain’ (NL-CS-AC-CJ: Senior Civil Servant in Ministry of Security and Justice and Member of van de Donk Committee)

‘...public opinion changed also because of the constant stories about how bad marijuana is for young people and that it is stronger than what it was... it is not your parent’s weed anymore, now it is really a hard drug.’ (NL-NGO1: Drugs Policy Reform Organisation and Psychiatrist)

Moreover, the acceptance of increased health risks to young people was combined with a reported decline in the average age of first use, creating the sense of an emerging crisis.

The recognition of a problem by government was evident in the drugs letter of 2003, spurred on by studies suggesting links between cannabis and mental health (see van Os et al. 2002; Zammit et al. 2002; Arseneault et al. 2002), but there have also been links made to poor educational attainment (Verweij et al. 2013), and increasing evidence since then of more cannabis users seeking treatment (see Appendix, figure 6.3):

‘...the Ministry of Health was always leading in the drug debate but now there were more negative aspects of health in the debate so the Ministry of Health was also changing its attitude towards cannabis and thinking about more repressive measures.’ (NL-CS-AC-H2: Senior Civil Servant in the Ministry of Health, Welfare and Sport and Member of the van der Donk Commission)

The mounting evidence articulated about the risks of cannabis challenged a fundamental aspect of Dutch drugs policy: that cannabis is a ‘soft’ drug, one whose harms are relatively benign. However, there existed a significant difference in participant views in the extent to which claims of increased harm are accepted as legitimately being associated or caused by cannabis.

One of the primary arguments against the problematisation of cannabis as a health issue is due to the existence of high-strength cannabis prior to the introduction of *nederwiet* onto the market. Imported hashish was the main and most popular form of cannabis up until the early 1990s, thus challenging the notion that this is a ‘new’ problem:

‘I said to the government, if that is true this warning has to be started in the ‘60s because when the foreign hashish came into the market it was already stronger than the *nederwiet* of 1994 so fuck off’ (NL-A-NGO1: Independent Research Organisation and Drugs Worker)

As can be seen in figures 6.1-4 (see Appendix), the trends in *nederwiet* are not wildly different to that of imported hashish which has had an average THC potency of between 12-20%, with evidence of imported hash containing more THC than the 'strongest' and 'most popular' variants of *nederwiet* in 2012/13 (Niesink and Rigter 2013). Critical perspectives suggest then that the increase in problems is in part due to greater public awareness and labelling of a problem, causing more people, and particularly concerned parents to associate deviant or undesirable characteristics of youth with the use of cannabis:

'What happens? All the parents who went to their work and saw that in the train station and you can phone 06 blah blah, and they had children, 12, 13, 14 years old... from the moment you make cannabis that dangerous by such public campaigns what happens is that parents don't start talking anymore about cannabis, they went to the clinic, yes my child, something is wrong...' (NL-A-NGO1: Independent Research Organisation and Drugs Worker)

'More in treatment, although by now there is quite some evidence that about half of those who start treatment, outpatient treatment for what is called cannabis problems, more objectively, cannot be diagnosed as cannabis-dependent. They are depressed and so on.' (NL-A2: Academic Expert in Criminology)

It could be argued then that the evidence base on the harms of cannabis is deeply contested. Whilst research has increasingly sought to clarify the relationship of cannabis to mental health problems and a range of socially 'abnormal' characteristics, in many ways this is still not clear given the blurry and sometimes difficult transition from adolescence to adulthood where individuals attempt to mould an identity. Adding to the critique of the problematisation, some participants alluded to the role of psychiatry in medicalising issues:

'It has been reframed by, I would say, a new generation of researchers typically from the clinical and medical field... all the issues in the cannabis debate are readdressed with new evidence, so the cannabis psychosis, schizophrenia, those terms, shift over time that typically dominated the debate at the beginning of last century.' (NL-A2: Academic Expert in Criminology)

As demonstrated, despite the fact that there has been clear changes in the nature of cannabis over the past couple of decades, the relationship to health is rigorously contested. Whilst there is a broad overall consensus that cannabis does have the potential to cause significant health problems, it is the taking up of this as a problem in connection with developments in the policy and political streams, which has led to the ongoing plans to put all

cannabis with over 15% THC in schedule I of the Opium Act. But the construction of cannabis as a hard drug has clear symbolic appeal that has challenged the traditional image of cannabis as a relatively safe and innocent substance and helps justify repressive measures towards an unwanted threat.

Cannabis as a Social and Moral Problem

As problems with criminality, nuisance and health seemingly increased and were brought more into the public realm during the 2000s, this co-existed with growing anxieties surrounding cannabis and coffeeshops. Placed within the political context at the end of the millennium, there was a growing dissatisfaction with the *gedoogbeleid* not only because it had created tangible practical issues, but also in the sense that it had allowed for coffeeshops to become too 'normalised' in Dutch society and challenged the moral tolerance of cannabis.

This has been particularly driven by the religious parties who believe that coffeeshops are 'bad examples' [NL-P4] for young people. There is a clear moral imperative behind such thinking which depicts the use of cannabis as morally wrong, and this is confounded by a logic which suggests that increased visibility of coffeeshops is linked to levels of use by young people:

'...if something is visible, we don't say when it is open they are more likely to go in, but they see it, they see other people going in and out so probably they get more enthusiastic towards trying to find a way to get a joint from somewhere and to try it themselves.' (NL-CS-CJ: Civil Servant in the Ministry of Security and Justice)

'...because they look lovely, they make restaurants, they are not these dark, nasty, illegal back corners... People say this is an innocent thing, this is nice, why shouldn't we go there?... they do everything to accommodate to the normal world' (NL-A-AC-CJ: Academic Expert in Criminology and Member of the van der Donk Commission)

The concern runs parallel to young people, health risks and the side effects of coffeeshops, and as such, a perception grew that 'young pupils... need to be protected from the sight of coffeeshops' [NL-A-NGO3]. Moreover, there is again a paradox between the accepted normality of alcohol but a 'negative societal feeling' towards cannabis [NL-A-AC-H1]. This dominant narrative was further driven by the coupling of cannabis to problematic social conditions and actors. Cannabis became connected to youth delinquency and exclusion which was intimated by both the van der Donk Commission and by a critical participant:

‘Problematic use of cannabis appears to be particularly prevalent among young people who are disadvantaged by their background and/or situation. These youngsters display a combination of characteristics: they use cannabis, play truant, are likely to have frequent contact with care services or spend time in youth detention centres, have no stable home situation, and may even live on the streets.’ (Advisory Committee on Drug Policy 2009:18)

‘in the mid-90s it became more and more popular among the lower level of the society... young people with the monkey on their shoulders, young people with no future, the poor people, no school, no job... so the cannabis use as a fly-away... But they connected that with coffeeshops and with the Dutch weed and that started from the second part of the ‘90s... wow the soft drugs are not soft drugs anymore and the dealer is the coffeeshop.’ (NL-A-NGO1: Independent Research Organisation and Drugs Worker)

Similar to England & Wales where cannabis was associated with ‘Blair’s feral youth’ and ‘broken Britain’, it had attributed a new meaning as a threat and risk to society, with the government employing paternalistic rhetoric to protect ‘vulnerable youth’ (Tweede Kamer 2011b:1, author’s translation). This has led to a questioning of cannabis policy along moral and ethical lines:

‘The ethical debate is back in the drugs policy and it is better for young people not to use drugs and they accuse us of not confirming that idea. Of course we don’t want people to use drugs from a health perspective or another perspective, but it is better to be pragmatic about it than ethical. But right now the ethical people are using almost vengeful rhetoric, are winning this debate’ (NL-CS-AC-H1: Senior Civil Servant in Ministry of Health, Welfare and Sport and Member of Garretsen Commission)

Following the moral and ethical logic that cannabis use should no longer be tolerated, a greater emphasis is paid to law enforcement as a means of instilling values.

However, for some there is a complete rejection that coffeeshops are a problem for young people because they are too normal due to the age criterion that exists. Thus, there is a sense that such problematisations are ‘...more of a moral discussion and it is fed by more stories than facts and figures I think... there are politicians who think that cannabis is the worst of all. I think that is more a moral point.’ [NL-A-NGO3].

So in sum, the notion that cannabis is a social and moral problem is again a deeply contested area which is as much about philosophies of human rights and morality as it is about prevention of youth consumption. Similar to other aspects of cannabis policy

problems, there is a divide between two broadly polarised positions which either associate cannabis with the causation of social and medical problems, or those which believe that cannabis and coffeeshops have in some ways been victimised and reconstructed in a way which is more open to punitive measures.

Cannabis as a Problem from Rutte I

A final component relates to how cannabis came to be defined as a problem after the introduction of the residency and closed club measures in May 2012. The trial of these measures in the three southern provinces occurred in a rapidly changing context, with widespread criticism of the new and planned coffeeshop criteria. Problems centred on the apparent increases in criminality and nuisance, and the related threat to the separation of markets which became encapsulated around the so-called *wietpas*⁶⁵.

As part of the trial measures, an evaluation study⁶⁶ was conducted to investigate the effects of the new measures. Whilst it was recognised that there had been serious declines in foreign visitors to coffeeshops, this also co-existed with increases in cannabis purchasing from non-tolerated outlets, such as '06' dealers (telephone), street dealers, and home networks (WODC 2013:157). Significantly, it was felt that the new measures had created a 'shadow economy' with serious negative side effects which was recognised both by participants and in the policy talk of the Rutte II coalition agreement statement:

'...suddenly there is this *wietpas* and that has had some terrible effects in the south where you see now that there is a shadow economy that didn't exist before and after 3 or 4 months of this pass situation people start looking outside the coffeeshop... so there were people on motorbikes from Rotterdam going to the cities in the south and just starting to sell and there is an instant market and they became very aggressive against foreigners, very aggressive against people living there, so it actually took 3 or 4 months at most to destroy 30 years of good practice.' (NL-CS-AC-H1: Senior Civil Servant in Ministry of Health, Welfare and Sport and Member of Garretsen Commission)

⁶⁵ The term *wietpas* ('weed pass') came to signify the closed club measure which required users to register at a particular coffeeshop, with initial suggestions from the Rutte I government that '[m]embership is granted in the form of a club pass by the coffeeshop operator' (Tweede Kamer 2011b:3, author's translation).

⁶⁶ Whilst the interim evaluation report depicts quite negative consequences of the new measures, it is important to bear in mind that the publication of this report was not until 2013, months after the Rutte II coalition was formed and altered the policy measures. But whilst this report was not able to be influential in problem construction or deconstruction, in many ways the sentiments contained within it were felt at the time.

‘...fewer people than expected have registered with coffee shops; residents of the Netherlands oppose becoming members of coffee shops and that in certain municipalities a large proportion of these residents have turned to criminal channels to obtain drugs’ (Tweede Kamer 2012:3, official translation)

The increase in criminality and nuisance became a major concern for local mayors and citizens, who whilst before were complaining about footfall and relatively low-level nuisance issues were now feeling more insecure with greater negative effects of cannabis policy:

‘When you talk to the mayors of the 8 cities who have coffeeshops they say altogether that there is a lot of increased dealing activity with criminality and the public experienced a lot of bad effects of those aggressive dealing activities.’ (NL-PP2: Public Prosecutor, Limburg)

The increase in ‘aggressive dealing activities’ is not only linked to the diversion of foreign users to non-tolerated sources, but also due to declines in the numbers of Dutch cannabis consumers who chose not to register at a coffeeshop. The need to register at a coffeeshop (closed club criteria) created significant resistance from users due to fears over what would happen to the information given that cannabis remains prohibited in a legal sense. It thus questioned the fundamental philosophy behind coffeeshops to protect cannabis users from other illicit drugs markets. The resistance against registration also occurred within the context of more recent fears of government⁶⁷.

The emergence of these problems following the introduction of the trial measures was also bolstered by significant municipality resistance. The ‘problem’ was that the new measures lacked policy legitimacy with key and powerful local mayors who rejected the necessity of implementing the new measures. Importantly then, the introduction of stricter measures for coffeeshops immediately caused a negative backlash towards the government leading to a re-problematisation of cannabis policy with protests against a perceived threat to the idealised separation of markets philosophy underpinning Dutch drugs policy. Such sentiments were certainly felt within the subnational case site which shall be considered next.

⁶⁷ ‘...at the same time there was an issue with our passports and biometric fingerprints on passports, and at that time it was known that all this information was not well kept by the government, so that came out, and at the same time it came out that we are going to register your names and all those identity things in the coffeeshop and then people said well no, we don’t trust the government in having all that information.’ (NL-P3: PvdA Politician, Utrecht).

6.3.2 The Subnational Problem Stream

Overall, findings from the local level suggest that there were points of convergence and divergence in the ways in which cannabis and coffeeshops were conceptualised as policy problems. First, in relation to *cannabis as a criminal justice problem*, there have been similar increases in awareness, incidents, and responses to illicit activities operating around the back-door of coffeeshops. Whereas in former years the issue of cannabis cultivation was not perceived to be an issue and received relatively little attention by the police, there has been a shift in attention aided through more rigorous data analysis and national prioritisation:

‘...for 4 or 5 years it didn’t get any attention, just getting the cannabis out of the houses and that was it... Many times we sent memos, put it on paper, have told what we saw on the streets, but it didn’t change the thinking of our staff... Some people will tell you this story of a mother with her child, no husband, no money. Get rid of it because that isn’t the scene anymore.’ (NL-POL4: Utrecht Police)

The perception that cannabis cultivation was a small-scale enterprise meant that police chiefs had little interest in pursuing cultivation cases. However, over the past couple of years there has been a definite shift with more resources being put into investigations at a local level. Certainly, national attention aided in the construction of a serious issue, but reports from inside the police also started to shift the internal culture to accept the negative aspects of the cannabis trade. For example, it was noted that there were serious problems such as a death threat to the mayor, violence, arms trading, gang wars and ‘rips’ [NL-POL4].

But what is noteworthy is that a participant from the police suggested that such changes in enforcement priorities had not started to occur until early 2013, well after the Rutte I government decided to introduce new measures, and so until this point the problem was hidden and not brought into the local police sphere due to being blocked by senior officers turning a blind eye to the increasingly dark realities encountered by detectives working cannabis-related cases.

In relation to *cannabis as a public order problem*, the case site had experienced problems predominantly relating to parking which appeared to be one of the most substantive concerns at the local level. The city’s coffeeshops are mainly located in the inner-city area, which are characterised by narrow streets. The flow of customers coming and going

constantly parking in bicycle lanes presents points of nuisance for local residents⁶⁸. For a large part, the more visible problems of cannabis and coffeeshops are of central concern for the local population because these are the aspects which impact on the daily lived experiences of residents. As one politician suggested:

‘It is not that it is about the health issue, it is not about the huge black circuit of criminality behind it because people actually say, do we care if people shoot each other whilst they are both criminals trading with each other? No, I am more irritated by the fact that there is dog poo on the street or I can’t park my car... As a representative of Utrecht... I am more focussing on these inconvenience problems.’ (NL-P2: VVD Politician, Utrecht)

Issues of image and visibility do not only relate to parking problems though and in some ways correlate with national concerns about *cannabis as a social and moral problem*. Such issues were well articulated by a CDA politician, but were also generally shared by most participants to varying degrees, who argued that some of the coffeeshops present problems which degrade the area:

‘...nearly all of them [are] structurally a problem causing trouble in the neighbourhood, attracting the wrong people, attracting hard drugs, dealers, attracting rowdiness in the night... We have had [in *straat]... a lot of trouble with people selling all kinds of drugs on the street also to under-18s.’ (NL-P4: CDA Politician, Utrecht)

A perception exists that coffeeshops and the public consumption of cannabis serves as a bad example for young people, and this presented itself in a ‘not in my backyard’ syndrome in relation to the opening of new coffeeshops, again confirming fears surrounding coffeeshops, nuisance and degradation to the local area⁶⁹. But despite the construction of policy problems outlined above, on the whole coffeeshops in Utrecht were not seen to be overly problematic, especially in comparison to the purported problems being felt in the southern municipalities with regards to drug-related tourists:

⁶⁸ ‘...people are not using inside of coffeeshops, they are using it at home, and they are using the coffeeshops for just buying the weed... People are parking their car, or scooter etc., leaving it there for 10 minutes and coming back and driving away. That is the main inconvenience now from cannabis.’ (NL-P2)

⁶⁹ ‘...it is not so much the public opinion that is opposed to coffeeshops in general, but it is just the... not in my backyard. People might be okay with having coffeeshops in Utrecht or even having more coffeeshops, just make sure that it is not in my neighbourhood because they are worried about the nuisance.’ (NL-PA4)

‘...the drug problem in this city was a homelessness hard drug problem, and the coffeeshops, well they just functioned, there was not much public nuisance of the coffeeshops, not comparable to what you have in Maastricht near the border or in other cities.’ (NL-PA1: Policy Advisor, Utrecht)

Conversely, coffeeshops were valued as a useful social outlet. This is particularly noteworthy from representatives from the police and prosecution who argued that the visibility of coffeeshops is a positive aspect for managing issues:

‘I think it is a good system... because you regulate, you see where it is sold, you can as the police, you can manage what is going on about that building, the people that come. Most of the time we don’t have complaints about the people around the coffeeshops... we also know that we never get rid of it because you know it’s here and it always has been.’ (NL-POL4: Utrecht Police)

There is an acceptance of the inevitability of cannabis consumption, and so the coffeeshops provide a useful and relatively unproblematic outlet whereby the situation is more controllable and manageable than when it is being sold through non-tolerated sources, thus affirming the market separation philosophy.

In comparison to the construction of problems at a national level, there are points of overlap, but importantly, the issues being felt at a local level were not considered to be overly problematic at the time of the Rutte I and Rutte II governments coming into office. The looming threat of large-scale cannabis cultivation and interrelated activities of organised criminal groups has, as with at a national level, been a longstanding concern, but in terms of police attention it only started to trickle upwards into the considerations of senior police officers in 2013 whereby more serious attempts to tackle such problems have taken shape. However, in comparison to the broader national conceptualisation of problems, there is more of a separation between cannabis cultivation and coffeeshops. At a national level, there is a heavier coupling of coffeeshops and cultivation which groups them together as criminal enterprises. However, in the local case site there is greater distinction, with coffeeshops largely valued as social institutions encountering minor problems of nuisance which could be dealt with through existing tools, and cultivation seen to only exist due to failures of the state to regulate the back-door.

Such viewpoints bear important implications for the way in which the new national policy measures played themselves out at the subnational level. But prior to examining this, it is now appropriate to turn back to how such policy measures came to be made preferable

through an examination of political feasibility, research and expertise, and technical feasibility at the national level of the policy process.

6.4 The Policy Stream

6.4.1 The National Policy Stream

The taking-up of cannabis problems were connected to a whole series of largely interconnected forces and factors which have tugged at, and shaped, how the Dutch have responded to cannabis. The changes to the coffeeshop criteria and planned introduction of a THC division represent a long struggle between competing agendas and alternatives, usually resulting in some form of compromise and ‘middle of the road’ stalemate [NL-A-AC-CJ]. This section examines the various factors that have shaped how policy alternatives were selected from the primeval soup.

Political Feasibility and Political Values

As a result of the changes in the political climate of the Netherlands, there has been a broad shift towards more punitive ways of framing problems and solutions. Where health dominated discussions of drugs policy up to the early 1990s, this is now contested with greater law enforcement imperatives. Similar to England & Wales, the perception of greater harms has resonated with desires for greater punishment and more repressive measures⁷⁰. With a dominant narrative of cannabis as a reinvented threat, the shift to criminal justice-driven values has not only shaped problem construction, but is also an important shaper of policy alternatives. A consequence is that the pragmatic tool of *gedogen* has come under pressure. As one participant remarked, the benefits of the separation of markets policy became lost in the face of increased threats:

‘It became more fashionable to be drug free than drug controlled. The separation of the markets, that idea has already been in place for 30 years so people start to lose sight of the

⁷⁰ ‘...they were also influenced by this, it is really dangerous, it is better to prohibit this... the more health risks the more reason to regulate it and not to prohibit it, but that is an argument you don’t get other people, they never react to that argument. They think it is automatic that if it is dangerous it should be forbidden.’ (NL-NGO1)

benefits that it provides' (NL-CS-AC-H1: Senior Civil Servant in Ministry of Health, Welfare and Sport and Member of Garretsen Commission)

The particular values of the political parties in power is of extreme relevance, with all three parties in the Rutte I coalition adopting a repressive standpoint towards coffeeshops (see Appendix, Table 6.1). More will be discussed on this political constellation under the *political stream* section, but here it is worth highlighting the values and role of one 'key player', Minister Ivo Opstelten from the VVD, who held the position of Minister for Security and Justice over both Rutte governments. A common theme pertaining to Opstelten was that he is (or was) seen as a somewhat respected, charismatic and 'successful crime fighter' [NL-A2] lying more on the conservative than liberal side of the VVD. Indeed it was postulated that he learnt a 'very visible yet selective approach' [NL-A3] whilst mayor in Rotterdam where he had to compete with Pim Fortuyn's populist right-wing party, LPF, on issues of law and order:

'I think there [Rotterdam] he learnt the acting, no words but acting... every day quotes, quotes, quotes, we have to tackle this, have to tackle that, so it's an image thing I think, harsh on crime. I think it is the language of our time, one-liners.' (NL-A-NGO3: Independent Research Organisation)

Thus, the types of policy measures preferred by the VVD were ones which attempted to not only display symbolic value that the VVD is the rightful party for law and order, but also ones which attached themselves to beliefs that a tougher approach will reduce problems. The key point here then is that the political values of the three parties in power in the Rutte I cabinet became coupled with particular policy preferences for responding to issues of cannabis through a law enforcement lens. This can be seen with the recent establishment of a new nationalised police force which is solely under the remit of the Ministry of Security and Justice⁷¹.

Set in the context of an increasingly hostile public and political perception towards cannabis, coffeeshops have become a suitable enemy for which stricter policy measures have become a politically feasible way to demonstrate the state's capacity of providing law and order:

'NL-A-NGO3: Opstelten is a minister who always says in those words, we are going to get them and a very aggressive style of speech, especially on crime nowadays, it's we're going to

⁷¹ Prior to the Rutte I government, the police were accountable to both the Ministry of Interior (for funding and organisational matters) and the Ministry of Justice (due to responsibilities of working with Public Prosecution), in order to 'guarantee democratic governance' (van Steden and Huberts 2006:14).

get them, punishment has to be harsher, harder, crime cannot pay off, that kind of rhetoric. It's the same with drugs, especially cannabis.

D: Why so?

NL-A-NGO3: Maybe it is an easy target.' (NL-A-NGO3: Independent Research Organisation)

This can also be seen in reference to 'strengthening and broadening the fight against organised crime' and employing a 'vigorous approach' to dealing with nuisance (Tweede Kamer 2011a:2, author's translation). Such views are strengthened by a political desire to be symbolically seen to be responding to policy problems.

The developments outlined above have contributed to a shift in the political feasibility of introducing tougher measures towards cannabis. Such moves confirm a similar caricature of crime control in other advanced late-modern liberal democracies. This links to a degree of 'westwind' [NL-A1] policy influence that has occurred from such countries as the US and UK due to these countries 'dominating the debate':

'...the UK is very active in where this cooperation occurs, so they are very influential. They are more influential than any other country in Europe except perhaps for Germany.' (NL-POL3: KLPD)

Thus, not only are policy problems influenced by punitive international discourses which have attempted to securitise and medicalise cannabis, but also that similar forces are in existence in the selection of policy proposals which narrow down alternatives to follow the more repressive moral authoritarian style of doing crime policy which dominates the US and UK.

The role of the international sphere in this respect is extremely pertinent not just for explaining broader penal currents, but also for its role in blocking particular ways of responding, thus shifting policy proposals towards those which are acceptable for neighbouring European countries. It has been noted earlier that the Dutch have consistently faced pressure to bring its policy on cannabis in line with European and global practices ever since it decided to *de facto* legalise the selling and consumption of cannabis (see Chapter 3). However, the sustained tensions created by Dutch drugs policy were 'cultivated' by Dutch politicians and has contributed to an 'internalisation of criticism' [NL-A2]:

'I think they [Rutte I] wanted to end this pressure, they didn't want to be the odd one out anymore, they didn't want to explain, and that's why they said let's not sell to foreigners

anymore so then we only have cannabis for the Dutch people' (NL-CS-AC-H1: Senior Civil Servant in Ministry of Health, Welfare and Sport and Member of Garretsen Commission)

Such international pressure and dynamics have created significant barriers in introducing liberalising reforms, which again has contributed to plausible solutions being found in measures which from an international point of view attempt to 'tackle' and reduce the problem rather than simply tolerate it. This can clearly be seen with the national introduction of the residency criteria.

Thus, the turn to a more repressive view towards cannabis advocated in Rutte I was conditioned by a historically restrictive set of international dynamics which have shaped the internal image towards cannabis. Over time these sustained criticisms have contributed somewhat to a crisis in the image projection of the Netherlands. On the one hand, there is a desire and pressure to not be the odd one out in the context of growing European harmonisation and international reliance, but on the other hand there is still a deep-rooted desire to project an image of tolerance and Dutch exceptionalism which is seen to be now overtaken by other countries in cannabis and drugs policy.

So despite an apparent shift to a tougher criminal justice-oriented perspective, a key contrasting point between England & Wales and the Netherlands is the political openness to more liberalising approaches to cannabis. Whereas such perspectives were found to be fairly maligned in England & Wales, there are still deep-rooted attachments to the benefits of a market separation policy which challenge stricter policies towards cannabis:

'...it is much easier here, D'66... they are the legalisers. There is legalisers in the UK as well but you never find 50% of the population for that. So that makes it easier in a way to have a differentiated approach and more differentiated opinions from the very strong against to the very strong pro legalisation.' (NL-A2: Academic Expert in Criminology)

Although internal and external critiques have been posited towards Dutch drugs policy, the 'list' of possible policy proposals is much more diverse than in England & Wales, primarily due to the resilience of beliefs in the market separation policy, which support notions for greater regulation of cultivation and the protection of coffeeshops as a valuable social institution:

'...the basic principle of '76 that it is good to counteract a social stepping stone process, this is still the principle under this system... nobody wants to close down all the coffeeshops in the Netherlands. Maybe sometimes someone thinks this, but in all the policy documents you

always read, also in the advisory committee it is concluded that the system makes sense.’ (NL-A-CS: WODC)

Harm reduction and health-oriented goals remain the core of cannabis policy, with coffeeshops seen as an ingrained way of achieving such goals. This speaks to whether there has been an erosion of penal-welfare ideals. Most participants recognised that there has been a broad shift away from such ideas as being ruling discourses on crime, deviancy and its control, but there was some differentiation in the degree to which such perspectives have diminished. For some, notions such as resocialisation still exist within a ‘large minority’ [NL-PP4], but for others, concepts such as *gedogen* have transformed and moved away from being centred around humanitarian ideals to being much more about pragmatism:

‘...I would say that tolerance as an ideal, as a humanitarian ideal, has disappeared, but tolerance as a pragmatic strategy is alive and kicking. We still solve problems that way.’ (NL-A3: Academic Expert in Criminology)

In this sense, traditional liberal beliefs have undergone a transformation and ‘recoding’ (Garland 2001) to become embedded within narratives of pragmatism. Such sets of beliefs are entrenched in most institutions and agencies that deal with cannabis, predominantly from those in health, but it is also seen across the public prosecution, Ministry of Security and Justice, police, and many local municipality governments. Contrary to England & Wales where arguing for liberal reforms is putting one’s head ‘above the parapet’, in the Netherlands it is suggested that the same feeling exists for advocating the complete removal of the coffeeshop system:

‘I imagine if someone would stand up and say, let’s close down all the coffeeshops, that would be putting his head above the field here... this is not an option, there would be a lot of opposition and also on a local level the mayors would not do it I don’t think... in most municipalities the situation is under control, so why would you change it? So it is not an option.’ (NL-A-CS: WODC)

These dominant beliefs in the positive role of coffeeshops lead to the advocacy of policy alternatives such as the regulation of the back-door. As such, the policy primeval soup in the Netherlands is not as restricted as in England & Wales.

There are a whole host of political parties largely existing on the left-hand side of the political spectrum that advocate a more liberalised and/or pragmatic approach towards

cannabis (notably D'66; Groenlinks; SP; PvdA). Given that the Rutte II cabinet included the PvdA, it is again worth noting that their political values had an influence on the political feasibility of policy measures within this coalition (see Appendix, Table 6.1). Thus, when considering the changes in policy under Rutte II, it is important to consider the political values underpinning the particular parties involved in national governance which allows certain policy alternatives to become preferable over others.

In addition to differing political value systems, a resilient set of actors and organisations opposing the stricter policy changes were also an important factor in the progression of measures from Rutte I to Rutte II. The result of these struggles between two dominant positions is that the end result of the policy movement was much less strict than originally intended, ultimately leading to further stalemate:

‘...it is a very difficult thing for policy-makers I think. They really have to balance between these two things. The citizens have the feeling that the government is acting right, and on the other hand they want to continue with this system. We are stuck in a paradox.’ (NL-A-CS: WODC)

The juxtaposition between a shift toward a tougher approach to crime and drugs precariously balanced with a counter perspective which reaffirms the necessities of a market separation policy is one which, in combination with particular characteristics of Dutch political culture, lends itself to policy compromise to find a ‘middle of the road’ solution [NL-A-AC-CJ] for all interested parties. Whilst the types of policy options that are politically feasible are wide-ranging, the narrowing down and selection of choices is one which is suited towards an incremental style of policy-making rather than sweeping reversals as can be the case in England & Wales. Next we turn to examine the role and influence of research and expertise upon the construction and selection of policy alternatives.

Research and Expertise

Compared to England & Wales there has been significantly more impact on cannabis policy in the Netherlands from expert committees. In the political context of fragmented and polarised positions on cannabis policy across varying coalition governments, the results and recommendations of pragmatic, problem-solving committees legitimise a way to find ‘middle ground’ in coalition policy (Jones 1995). However, the relationship between research,

expertise and policy is not purely evidence-driven, with similar accounts to England & Wales of using research to fit particular political agendas and needs.

The problematisation of cannabis as a criminal, public order, and health issue came to a head in the late 2000s which led to the ruling government of 2008, Balkenende IV, seeking to create a 'new, integrated policy document on drugs' (Advisory Committee on Drugs Policy 2009: Appendix I). This heavily involved the use of research and expertise to inform the debate, with an evaluation of drugs policy commissioned (van Laar and van Ooyen-Houben 2009) prior to the establishment of an expert committee. This committee was tasked with '...as to whether all or part of the Netherlands' policy on drugs must be reviewed and, on the basis of the understanding it has gained, to make recommendations... for a drugs policy that is future-proof from a broad social, national and international perspective' (Advisory Committee on Drugs Policy 2009: Appendix I).

Interestingly most of the findings and recommendations of both this commission (van de Donk) and a later one (Garretsen) were taken up by successive coalition governments (Rutte I and II), demonstrating the utilisation of expertise. The first committee was formed under the chairmanship of Wim van de Donk, and according to participants, the challenge, much as it was in the political realm, was to try and find a common shared position or 'golden angling' [NL-A-AC-CJ] between two broad factions representing health and criminal justice perspectives.

There was an extremely pragmatic and compromise-based approach written into the purpose of the committee, and the way in which consensus was found was through the use of a policy matrix (see Appendix, figure 6.5) which opened up mutual and multiple solutions to the problem⁷². For the van de Donk committee, the most rational policy option was to move from option II (open, one-sided regulation) to option IV: a closed type of coffeeshop which serves the local market. As the report suggests:

⁷² In total, six possible policy options were proposed which ranged from complete legalisation (option I), to a complete ban on coffeeshops (option VI) (see Appendix, figure 6.5). These two extreme options were rejected by the committee on the basis that prohibition would '...mean the loss of the quiet, safe environment they offer adult cannabis users', thus attracting such users to a more harmful and damaging environment of the black market, and alternatively complete legalisation would '...only serve to attract more foreign users, and possibly also producers, since they could grow cannabis for export in this country freely and without risk' (Advisory Committee on Drug Policy 2009:43-44). Ruling out these two options then, the committee sought to find consensus on an approach within existing parameters. Option II describes the starting point prior to the introduction of new measures, that 'coffeeshops are open to the general public but subject to one-sided 'regulation'', which was seen as unsatisfactory due to the 'crime-inducing nature of a non-regulated supply side' (ibid:44). It was suggested by the committee that one option would be to regulate the back-door which would give local authorities more power over production (option III). But this was not seen as an 'automatic step' (ibid:45), and was rejected by the committee due to the involvement of organised crime in supplying large coffeeshops, and as such, '[g]iven the problems currently associated with this, the risks would be too great' (ibid).

‘Measures to restrict flows of customers to coffee shops are needed, as a matter of priority in regions where coffee shops systematically serve a cross-border market. Restricted access to coffee shops for cross-border consumers would reduce the influx of foreigners, many of whom come because coffee shops give them a quiet, safe environment in which to consume cannabis. If they were to stay away, the coffee shop market would shrink, and the associated side-effects (drug runners, street dealing – including in hard drugs – and traffic nuisance) would be reduced.’ (Advisory Committee on Drug Policy 2009:46)

The need to restrict foreign visitors was also imagined in a more ‘radical’ policy within this option which would make coffeeshops private clubs (ibid). This would require that local users become members of a club which could be restricted to a particular region. These ideas were adopted by the Rutte I coalition with the introduction of the residency (*ingezetenen*) and closed club (*beslotenclub*) criteria.

It was on these lines of thinking that a ‘*communis opinio*’ [NL-A-AC-CJ] was found in the committee, with joint recognition that to move beyond the current situation and problems, the only way is ‘damage control’ [NL-A-AC-CJ] by coffeeshops returning to their ‘origins’ as a ‘local facility’:

‘...the only way to reduce [in] any case, let’s say the burden of our own policy, because we are organising our own mess, and if you want to keep the coffeeshops alive then we have to reduce them to what they were originally meant to be. Local facilities for Dutch people, and the framework of public health.’ (NL-A-AC-CJ: Academic Expert in Criminology and Member of van der Donk Commission)

The way in which the committee framed solutions to the problems was with a fundamental acceptance of coffeeshops. As already said, the option to completely ban coffeeshops was not conceivable due to the threats to what is dominantly seen as the beneficial separation of markets. But in addition to a need for more central direction, an important recognition was ‘...to allow for tailor-made approaches’ (Advisory Committee on Drugs Policy 2009:49). Local experimentation is advocated, much the same as the original intentions underlying the committees of Baan and Hulsman, to develop and test pragmatic solutions.

Overall then, we can see that the van de Donk commission was very influential in producing recommendations that were used in the creation of new coffeeshop criteria under Rutte I. The proposal to limit foreign visitors was seen as a prerequisite before any further changes should be made and this came to fruition in the shape of the residency criteria. Moreover, we can see that the closed club criteria also came out of this report as a way to try

and better control the size of coffeeshops and therefore also the cultivation supplying them. The whole premise of the recommendations was to return to an idyllic state of affairs, before things went wrong, and the only conceivable way to do this within existing parameters was to try and limit the coffeeshop market.

The van de Donk committee was primed with looking at the future direction of Dutch drugs policy, but a major point of consideration related to the overall drugs legislation and the system of classification which is used to control illicit substances. The committee concluded with the suggestion to establish a new committee to look at the Opium Act list system and whether moves should be made to introduce a single list of illicit substances. In response to this, a new committee was established, led by Professor Henk Garretsen, who suggested that:

‘...we don’t take over that recommendation. We really think that it is very useful to have a distinction between hard drugs and soft drugs. It is not very right terms but we know what we mean then. So this committee really thought unanimously that we should retain the distinction.’ (NL-A-AC-H2: Academic Expert in Health and Chair of Garretsen Commission)

Whereas the van de Donk committee was more of a balanced discussion of health and criminal justice concerns, the framing of the Garretsen Committee was very much health-driven. However, one of the points most picked up on from the Garretsen Committee was the recommendation to divide cannabis according to high and low potency which would place stronger forms in Schedule I of the Opium Act, or as a hard drug (Expertcommissie Lijstensystematiek Opiumwet 2011). Doing so would make all offences related to cannabis the same as those of other hard drugs such as cocaine, heroin and ecstasy.

From these two commissions then, a number of potential policy options were presented, which lies in stark contrast to the limited advice given by the ACMD in England & Wales. The search for policy alternatives in the Netherlands had a much broader remit, and as such the list of policy proposals to be seriously considered were wide, but were also narrowed down through a process of rational and logical discussion amongst differing, and somewhat polarised, perspectives.

In one way then, research and expertise appears to have a very pragmatic ‘content driven’ problem-solving capacity [NL-A-AC-H2]. The construction of committees prior to the installation of new policy measures is a clear example of this, with most of the measures that were introduced under Rutte I (with the exception of the school’s distance criteria) relating to proposals made in these committees. Moreover, whereas in England & Wales expertise and advice from the ACMD was drawn upon as a statutory obligation prior to policy change and

then swiftly rejected, in the Netherlands research continued to play an important part in policy discussions and development. This is evident in the evaluation of the residency and closed club measures which has been an important shaper in the debate (see WODC 2013).

But not only does research serve as a pragmatic tool to solve policy problems, it also provides legitimisation for a coalition government to follow a particular direction or proposal. Expert committees are seen to provide a way to find solutions which are seen to represent a wide variety of interests. This was apparent in the views of both those working in the commissions⁷³ as well as by politicians:

‘...because a coalition system really needs to have a basis, someone will always have to move in their position to get a decision, that means they should have reason to change which they cannot get from their manifesto because they are changing from this. So there is some necessity for facts or expert judgement or something like that to support the moving of the political position.’ (NL-P4: CDA Politician, Utrecht)

Again, this presents somewhat of a distinction from how and why research and expertise was utilised (or not) in England & Wales in relation to the 2009 reclassification. But similar to England & Wales, participants also noted that research more broadly is also used for political means to support ideological viewpoints:

‘It is very ideologically-driven so it is very difficult to see the research outcome in a neutral way. People use it for their own point of view.’ (NL-CS-AC-CJ: Senior Civil Servant in Ministry of Security and Justice and Member of van de Donk Committee)

In this sense, the taking up of recommendations to ban non-Dutch residents and enforce stricter rules against coffeeshops fitted within the dominant right-leaning ideologies of those in power at the time the measures were initially introduced under Rutte I. Moreover, after the residency and closed club measures were trialled and evaluated in the south of the country, for Minister Opstelten and proponents of the new stricter measures, they were heralded as a ‘success’ which must be pursued with even more rigour (Tweede Kamer 2012:3). For others, the evaluation was used to highlight the failures of the experiment, to demonstrate its catastrophic effects on the separation of markets.

⁷³ ‘...because this topic is so controversial, that because of that they follow more the content of these reports... in these 2 cases the policy is to a quite a large extent content-driven and not politically-driven. But perhaps that is just because that is so controversial and they couldn’t come to a solution themselves and that was the reason to form a committee.’ (NL-A-AC-H2)

Also important is the challenge to expertise from the growth of populism and sharpening of ideology towards cannabis which has driven short-term political point scoring and choosing a 'standpoint' over 'facts' [NL-POL1]. Such trends have questioned the fundamental use of research and expertise in guiding decisions. Indeed, it is within the very essence of populism to move away from elitist forms of governing and placing democratic power into the hands of the *demos*. As one politician noted, 'the PVV don't believe in research' [NL-P1].

Thus, there is some evidence to suggest that there is sometimes a dubious relationship between research, expertise and policy, with the prioritisation of 'fact-free politics' over one based upon scientific advice [NL-A3]. This can be seen with the planned introduction of the school's distance criteria. Despite there being no evidence to support such a policy measure, and no clear and logical rationale for its effectiveness, this measure was still advocated under Rutte I:

'...there was one research project in Rotterdam, they applied such a distance criterion already, 250m not 350m, and the research showed that it did not have any effect on the youngsters, not any' (NL-A-CS: WODC)

'I think the [school's distance] criteria is an example of the Christian Democratic way of looking at the drugs problem... that is a criterium that has never been proven that it works.'
(NL-A-NGO3: Independent Research Organisation)

This was primarily an item favoured by the Christian Democrats and Minister Opstelten to reinforce a moral and ideological position that attempted to denormalise cannabis and coffeeshops as a whole, rather than introduce measures which would more effectively reduce and prevent youth consumption.

But even with the use of research and expertise in this way, it clearly continues to perform an important function within Dutch politics, and so whilst the presence of populist forces may drive policy to a degree, research and expertise also serves as a correcting force for measures which 'are not successful in practice' [NL-PP4], as has been the case with the evaluation of the closed club and residency criteria.

Technical Feasibility

Alongside political feasibility and the use of research and expertise, a fundamental aspect in the selection of policy alternatives in the Netherlands was their technical feasibility. Dutch drugs policy is awkwardly positioned between regulation and prohibition, and one of the main reasons for this is the fact that international conventions and regulations are seen to limit the extent to which cannabis can be further liberalised. As with much of the debates surrounding cannabis and drugs policy, the exact limitations are contested, with a divide between those who believe that there is room to experiment with policies which would regulate the back-door problem within existing frameworks⁷⁴, and those who believe that the conventions are set in stone with little variability available beyond the already strained *gedoogbeleid*. From the government's position, it has been clearly and repeatedly stated that experiments which would bring into question the Netherlands' allegiance to the spirit of the international conventions are not feasible:

'The core of our policy is that any kind of cultivation of cannabis is illegal and remains prohibited. Experiments such as the municipality of Utrecht represent conflict with applicable legislation and international obligations' (Tweede Kamer 2011a:5, author's translation)

The presentation of the impossibility of full regulation in itself further justifies the need to be more repressive as the only logical solution within the given context.

But not only are international UN conventions an obvious and important shaper, but also noted were the problems with trying to introduce policies which would restrict foreign visitors. Local municipalities have attempted to introduce such measures prior to their national introduction but were faced with law suits by coffeeshop owners who argued that the policy unfairly discriminates against other Europeans and unfairly affects coffeeshop businesses in selected areas (see Chapter 3). Such challenges have continued since the residency criteria has become part of the coffeeshop criteria, but there is a very important technical aspect in why the government chose, or had to, introduce new national criteria as opposed to allowing municipalities to add it to their local rules and regulations. That is, the

⁷⁴ It was noted that recent developments in global policy movements, especially in cannabis policy, were seen to be gradually opening up a space for policy alternatives that stretch more into liberal reforms such as regulation: '...you see Americans lose their moral high ground, all the states making their own drug policy on cannabis etc., things are happening... it could easily happen if there is some momentum on the international level, and Holland won't be the last.' (NL-CS-AC-CJ). Indeed, pressure has continued to mount particularly from a coalition of local mayors who wish to start experiments on the back-door, culminating in the 'Joint Manifesto' signed by 35 mayors arguing for back-door regulation (see NRC 2014).

rules had to comply with international and European regulations, the *Grondwet* (Dutch constitutional law), and the Opium Act⁷⁵.

So in this way, the technical feasibility surrounding the introduction of new policy measures is a crucial element which constrains possibilities within existing approaches. Legalisation and regulation of the back-door is not seen as an option but neither is the complete prohibition of cannabis and the closing down of coffeeshops. However, within a political context which more readily facilitates a punitive shift towards cannabis, the technical feasibility of policy options has been used to fit particular agendas. Minister Opstelten's reluctance to consider cultivation experiments is in part shaped by technical feasibility, but such a policy would go against his and the VVD's commitment to tackling crime. For such individuals, the solution is not in regulation but in tougher and stricter measures.

Next, we turn to consider how the policy preferences selected at a national level were translated into the subnational domain of Utrecht which has been one of the forerunners in resisting national measures and advocating alternatives.

6.4.2 The Subnational Policy Stream

The broad perspective concerning coffeeshops in Utrecht was that they are largely unproblematic, with cultivation considered a problem due to policy failures to address the back-door. The national changes to the *gedoogbeleid* were seen as counterproductive – contributing and creating problems which either were not serious, or which exacerbated them – and as a result created resistance towards the measures initiated under Rutte I:

‘...we don't have any problems with tourists in coffeeshops so we don't see the idea of installing permits or something, and 350m, we don't have any problems yet and we don't see the advantage of that, only that we have to close down a lot of coffeeshops and only a problem that we have too few coffeeshops, that is not of any help.’ (NL-P5: D'66 Alderman, Utrecht)

A further policy problem is highlighted here, that ironically it was considered by this participant that there were not enough coffeeshops in the municipality. In relation to the

⁷⁵ Following a test case, one participant noted that: ‘...the outcome was that the rule complied with the European rules, it also complied with the *Grondwet*, the basic law of the Netherlands, but it did not comply with the Opium Act, so this rule could not be applied that way so they said this was not allowed to be a local rule, so if you want to do such a thing you should do it on a national level’ (NL-A-CS: WODC).

school's distance criterion, the main objections were centred around the fact that it would have led to most coffeeshops being closed down and that it was not based upon any sound evidence that it would be effective in reducing use by young people:

'I would not be in favour of a small shop standing in front of a school but I don't think a criterium will make a difference for children starting to smoke soft drugs.' (NL-P6: D'66 Politician, Utrecht)

'It is not solving a problem. We see that it is creating problems and it is not solving the big problem we see' (NL-P5: D'66 Alderman, Utrecht)

In the latter quote, again it is emphasised that the 'big problem' is not with coffeeshops and nuisance, but with production and supply of cannabis to coffeeshops. The main issue with the planned introduction of the private club and actual introduction of the residency criteria is that the local case site does not experience problems related to drug tourists, with estimates that only approximately 10% of coffeshop visitors are from abroad. As such, there were fears that the introduction of this measure would cause rises in street dealing due to the necessity of checks and registering of information from users:

'...people don't like to have their identity being registered, certainly not in the coffeeshops, and we were very afraid that that rule would start up dealing in the streets again' (NL-P3: PvdA Politician, Utrecht)

'...it's not only not a problem but we cause a problem by introducing it and by enforcing it.' (NL-PA3: Policy Advisor to the Mayor, Utrecht)

The reaction of the local municipality towards the measures introduced under Rutte I was that they were all seen as unnecessary and would actually create problems as a result. Whilst the residency criterion remains in the national guidelines, there is no current intention to enforce it, which is evidenced both in participants' views, as well as in the official response and local coffeshop policy which was published in July 2013:

'The Residents Criterion which is part of the national tolerance criteria (AHOJGI) will be listed in the Utrecht enforcement strategy Hotel and Catering indicating that enforcement in hand will be taken as objectively determined that the visit of non-residents at the Utrecht coffeeshops leads to trouble.' (Gemeente Utrecht 2013, author's translation)

‘We think it is necessary if people who can’t show they live in our country are causing problems, but they don’t at this moment so we don’t implement it now, and we will implement it as soon as that is the case... As long as we don’t have that problem there is no duty to implement it.’ (NL-PA3: Policy Advisor to the Mayor, Utrecht)

Thus, whilst the residency criteria is recognised in the decisions of the local policy, there are no intentions to enforce it until foreign consumers are considered a problem. Interestingly though, despite the refutations of the school’s distance criteria, the local coffeeshop policy has partially included this into its guidelines, stating that 250m applies in the inner-city, 350m in residential areas outside the inner-city, and no distance criteria in the outskirts of the city (Gemeente Utrecht 2013). This could be seen as a result of the growing ‘broken windows’ perspective and negative stigma that has come to circulate perceptions of coffeeshops, to protect families and children from the threat of cannabis. But the resistance fostered towards the residency and school’s distance criteria was premised on the belief that they were not considered suitable policy measures, grating against the political feasibility of introducing other preferred options.

Alongside dissatisfaction with measures initiated at a national level, an important (and contrasting to England & Wales) aspect at the subnational level is the ability and possibility to create policy solutions to the problems that are experienced⁷⁶. Perhaps one of the most important developments at the local level in addition to the large resistance towards the stricter national measures is the proposals to start two ‘experiments’ concerning regulation and provision of cannabis. The first experiment concerns the provision of low-THC/high-CBD⁷⁷ cannabis to approximately 80 dependent users experiencing psychiatric problems, and serves a similar purpose to heroin prescription; to stabilise and reduce cannabis use that could be exacerbating problematic disorders. But the most contested proposition is based upon introducing a cannabis social club.

Under the prosecutor’s guidelines it is possible for individuals to grow up to 5 plants without being prosecuted, and under a club model, the idea is that collectively, 200 individuals would be able to grow up to 1000 plants which would then be shared amongst the

⁷⁶ For example, one possible policy alternative that has been aired (but yet to come to fruition at the time of writing) is to establish ‘drive-in’ coffeeshops on the outskirts of the city to address parking and nuisance problems experienced in the inner-city: ‘...we have to go towards a new concept for coffeeshops, and that is a drive-in coffeeshop... you can diminish those Inconvenience problems by closing down some coffeeshops in the centre... if you move them to the parts where there are no people living there and people can go there by scooter, bicycle or car, and pick up over there and use it at home, then at least the inconvenient pressure in the inner-city will be diminished, and also in some areas where the main focus is living with families etc.’ (NL-P2)

⁷⁷ CBD (Cannabidiol) is an anti-psychotic cannabinoid found in cannabis which has been demonstrated to be promising in the treatment of psychiatric disorders (see Campos et al. 2012).

club's members. The plans, originating from the Alderman for health, carve a clear rationale behind the experiment, drawing upon research and evidence, which is argued along the basis of benefitting health (College van B&W 2011). Indeed, such an experiment aims to serve a purpose alongside the intentions to control THC content through regulation of the plants that are being grown. This would thus ensure that they comply with national legislation rather than leaving the production in the hands of those existing outside of regulatory frameworks and placing culpability upon coffeeshop owners who are expected to be responsible for the THC content of the products they receive and sell. Interestingly, the plans suggest that such experiments are possible within existing national and international frameworks, on the basis that these plans are for scientific and medical purposes for the benefit of public health, thereby contesting national policy talk that such experimentations are not technically feasible:

‘...all treaties, international and national law, is saying that if you want to do science you can do that, so this is the way we are now making steps forward’ (NL-P5: D’66 Alderman, Utrecht)

So there is some purported degree of manoeuvre available to local municipalities in the translation of national policy and the creation of new policy as can be seen with the recent coffeeshop measures and proposed cultivation experiments. Cannabis policy can be seen as a deeply contested ground, with dichotomies constructed between the technical and political feasibility of policy alternatives. At the national level, regulation of cultivation was not considered an option because it did not fit with the particular values and ideologies of those in the Rutte I government, but at the subnational level alternative discourses and plans suggested that such policy measures were possible and desirable.

6.5 The Political Stream

6.5.1 The National Political Stream

The final section discusses the final stream in Kingdon's framework which affected how and why the changes to the *gedoogbeleid* were introduced and then later revised, with a drilling down into how the local case site served as a point of resistance in national debates as has been alluded to here. Of particular relevance in this section is the importance of 'changes in administration' which shifted the political representation of national government, 'organised political forces', and the 'national mood'.

Changes in Administration

A key aspect in accounting for national policy change in the Netherlands is the fact that there were decisive changes in government which shifted the political constellation first from a balanced centrist coalition between two religious parties (CDA; CU) and the PvdA under Balkenende IV, to a right-leaning cabinet of CDA and VVD with parliamentary support by the PVV under Rutte I; and second, from this back to the centre with a balance between VVD and PvdA under Rutte II.

Following the conclusion and report of the expert commission van de Donk and the elevation of policy problems into the political sphere, a window of opportunity was opened allowing the government of Rutte I to introduce a stricter set of measures which would have heavily reduced the overall number of coffeeshops and limited their use to residents of the Netherlands. However, with a further change in the political colours of government, the window remained open, with the proposed and trialled measures then revised under a new coalition agreement which removed the measures which were seen as a 'step too far' [NL-CS-AC-CJ] (i.e. school's distance and closed club), and gave greater flexibility to local municipalities in how and when to implement the residency criteria as a national rule. Given the importance of such changes in administration in altering the policies, consideration is given to the politics of coalitions.

Set within the context of increased voter volatility and mobility since depillarisation (Aarts and Thomassen 2008), political parties necessarily have to adopt clear standpoints on issues. In the case of cannabis, this has largely led to a polarisation of views between the 'right' and 'left'. This is seen to be due to an ingrained acceptance that no one party will hold a majority in a system of proportional representation, and so there is a political need to have a party 'profile' in a plethora of available viewpoints⁷⁸. With the growth of law and order populism and a disdain for *gedogen*, this presents a 'danger' for policy-making in crafting policy responses which are based more upon popular appeal than on rational problem-solving:

'...we feel more and more pressure as politicians, we have to get very clear and tough on progressive or repressive or conservative issues. You have to do your best to be a more distinctive politician because we also have to look at the polls, we also have to look at the

⁷⁸ '...all these political parties need their own profile... there is true awareness in every political party [that] they will never have the majority, so they need to profile.' (NL-A2)

voters, we also have to look at the media... to distinguish yourself you sometimes have to be focussing on a distinctive policy than really the best policy. That is one of the dangers and risks' (NL-P2: VVD Politician, Utrecht)

Indeed, the rising popularity of the PVV (which became the third largest party in the 2010 election, see Aarts and van der Kolk 2011) was crucial in creating competition with the CDA and VVD for voters on such issues (also see van Kessel 2011):

'For a long time Geert Wilders, he was the guy of the big statements on crime etc. and we noticed here that even a minister of the Christian Democrats who was very in the middle, he was getting signals from his party that he had to be stiff on crime to get the wind out of the sails of Mr Wilders. So when it became clear that crime was going down tremendously, we had to work for a year to get our minister to say it out loud. He said it is not politically convenient for me to say it.' (BL-CS-AC-CJ: Senior Civil Servant in Ministry of Security and Justice and Member of van de Donk Committee)

'There is the VVD, in reaction to PVV and Pim Fortuyn, has become a more right-wing party than they were. They are more strict towards crime. So there is a shift towards the right-wing in Holland... the middle parties have become more right-wing.' (NL-PP1: Policy Worker, Public Prosecutor's Office)

With cannabis policy a deeply politicised issue, there is pressure and tension for politicians to respond quickly, clearly and authoritatively, allowing for a reactionary knee-jerk style politics to foster. The types of responses generated in such a climate are seen to be 'incident-driven' [NL-PP1] with a quick turnover of policy measures which is directly related to the instability and turnover of coalitions in the Netherlands. Instead of looking to build longer term strategies and policies, participants noted that the quick turnover of governments had contributed towards short-term policy solutions and policy movement between different coalitions⁷⁹.

The need to be *seen* to be responding over and above the actual quality of policy response has meant that each party and government attempts to make their mark whilst in power. Some measures are introduced more on the basis of their symbolic prowess rather than their ability to tackle content-driven problems. To a degree, this was exemplified in the measures initiated under Rutte I. The rules had symbolic appeal and appeared to show that

⁷⁹ '...because they were changing every couple of years and that goes for a lot of national policy, we will see it when it gets here, because things really change quite quickly, it's never clear how things will be worked out' (NL-P4)

the government was taking some action against recognised problems. This was particularly the case with regards to the school's distance criteria, but can also be seen more broadly as the tighter measures offered little in the way of effectively addressing the back-door problem other than tough rhetoric emphasising a 'vigorous approach' and 'strengthening and broadening the fight' against criminality (Tweede Kamer 2011a:2, author's translation).

But importantly, it was the combination of political parties within the Rutte I coalition and the particular values which they held that helped shape the chosen responses and reject alternatives. Overall, the distinctive shift to further repression was made possible because of the 'unique' situation of having a completely right-leaning cabinet:

'Rutte I was a unique cabinet because it was completely right-wing, or centrist-right-wing, but it was a unique coalition for getting through policy measures in one direction and I think that was unique over the past 40 or 50 years, I don't think it will come back very quickly.' (NL-P4: CDA Politician, Utrecht)

However, despite the idea that extreme positions are taken by political parties at first, especially in the election campaigns, in many ways the Dutch political system follows a process which necessarily churns out a more balanced approach. This is due to the very nature of having to form a coalition. There are loyalties and preferences to working with particular coalition partners, but compromise and agreement has to be made between at least two parties on how they are to govern the country. By taking an initially more extreme position, this becomes politically useful in negotiations as less ground is politically lost than if you were to start bargaining at the centre:

'One thing, that is campaigning, and secondly, that is also negotiating. I was quite fierce in the media about, for instance, the wietpas, then you get a sort of pressure always that the others are getting fiercer and in the end I don't have to move this much but I only have to move this much because I already took a very radical position in the beginning... so what you have to give in in the negotiations is always less than if you are straight away starting in the middle of the road. So it is both campaigning and negotiating with the other parties.' (NL-P2: VVD Politician, Utrecht)

In Rutte I, the combination of parties meant that much of the political goals could be achieved with a relatively shared vision of more repression as a policy solution. However, where compromise cannot be readily found then a process of 'wheeling and dealing' [NL-A-

NGO2] is required⁸⁰. Where compromise can be found it is made, where it cannot it may be traded for another item, or it may be that the issue is too contested that it creates a stalemate and is left to one side until a future coalition can find some form of agreement on how to proceed. This latter option seems to be used fairly often with a subject as contentious and volatile as drugs policy.

Part of this political culture relates to a fundamental value of the Netherlands, which is to be inclusive, a desire not to let any one side dominate:

‘Even if you are on other sides of the political spectrum you have to deal with each other. You have to try and find common positions and don’t let the majority dominate.’ (NL-CS-AC-CJ: Senior Civil Servant in Ministry of Security and Justice and Member of van de Donk Committee)

The result of this process is that policy change is relatively slow and incremental with initial positions retreated from in order to find a balance. Linked in to this, there is an acceptance that new coalitions cannot completely undo the decisions made before it, providing some continuity⁸¹. This can be clearly seen in how cannabis policy has unfolded, with initial movements started under Balkenende IV to introduce a revised drugs policy, which were carried on and introduced under Rutte I, and then revised under Rutte II, where the more contested elements were softened down. Thus, the nature of policy-making in this instance is that they were relatively small steps within existing boundaries which were then counteracted by further changes in government. In this way, the politics and policies of the Netherlands aimed to ‘please the right with tough talk’ but satisfy liberal practitioners with more pragmatic and flexible policy [NL-A3]:

‘This is the way how things go. There is national legislation which is either carried out or very explicitly or less explicitly rejected. Then there is some kind of fight over who is the owner of the problem and there is some compromise and some condoning and the problem is slightly,

⁸⁰ For example, within a political portfolio, a party will ascribe more value to some issues than others, and in the ‘backstage’, deals will be made over which issues are to be given to which parties to lead on: ‘We call it the backstage. Every party has 10 or 20 goals they want to achieve, and from that 10 or 20, some of them you could say they are characteristic of my party, I don’t want to lose them. For the Social Democrats, drugs is not one of the characteristic items. So if they have to change items, one of that is drugs.’ (NL-POL1)

⁸¹ ‘I think in general Dutch politicians accept that with coalition-building you cannot just go into a coalition or a government and change everything because it will lead to chaos, no judgement on the English system. And also, there are always parties, it very rarely happens that a completely new coalition comes in. So those parties continue from one coalition to the next.’ (NL-P4)

slowly disappearing and the media lose their interest and then it is no longer a political issue.’
(NL-A3, Academic Expert in Criminology)

The second change in administration is of key importance in this regard, in that the VVD’s new coalition partner, PvdA, had a completely different perspective than the CDA and PVV on how best to respond to cannabis, and so reaching a compromise and bargaining on this issue was a key aspect of being able to form a coalition. Consequently, notable changes were made in the Rutte II coalition agreement regarding cannabis policy which saw the removal of both the school’s distance criteria and also the closed club criteria. The remaining criterion introduced under Rutte I, residency, was loosened to allow local municipalities greater freedom in how and when to enforce the rule (Tweede Kamer 2012).

The impact of the change in administration then, is that it has brought more balance between the polarised right and left back into the same coalition, and as a result, there has been a shift from repression in Rutte I to ‘water treading’ [NL-CS-AC-CJ] in Rutte II. It was noted that without the ‘threat’ and pressure from the extreme right-wing PVV in government, this allowed coffeeshop policy to become less strict and more flexible than originally intended:

‘...now there is a new government and they consist of left and right. The right-wing extremists [PVV] are smaller, the threat is less I think on that side of politics, and they [VVD] made a deal to govern and they, not by always finding compromise on the main issues, but by wheeling and dealing... Part of the deal was, I think, more liberal, more tolerant approach of the coffeeshop policy.’ (NL-PA3: Policy Advisor to the Mayor, Utrecht)

This has created an interesting situation for Minister Opstelten, who on the one hand is more flexible with compromising with his PvdA counterparts, but there is also a political desire to ‘save face’ and keep up his own image and political appearances as being a crime-fighter:

‘He is a hard-liner, he has strong support, a man that gains a lot of respect... he would lose his face if he was to stop with the wietpas’ (NL-A2: Academic Expert in Criminology)

‘He is becoming more lenient whenever he encounters real opposition, then he adjusts his plan. But not from the start. He is not open for discussion from the start so he will try to get things done as long as he can, his way.’ (NL-PP4: Policy Worker, Public Prosecutor’s Office)

So there is evidence of ambivalent crime control strategies within Rutte II. On the one hand, there is an acceptance of the negative side-effects of the measures of Rutte I coupled with

support for the beneficial role of coffeeshops and pressure from the PvdA, but on the other hand, political imperatives that are influenced by a broader shift in political climate have led to a continuing belief in repression and tougher law enforcement as a solution.

The result of these negotiations is that much less change has occurred than originally envisaged, with the sense that cannabis policy has returned to a stalemate between differing views on how best to proceed. The politics of coalitions, coupled with timely and decisive changes in administration, provided a powerful mechanism by which more extreme or contested policy measures were rejected or revised.

The National Mood

The nature and role of the 'national mood' is as schizophrenic and polarised as the political parties. Greater media coverage of policy problems arguably increased public and political support for tougher measures against cannabis. However, following the suggestions above, once the new measures were introduced there was a severe backlash from a liberal community who felt their rights were under threat. Whilst it was broadly recognised that Dutch media is not as febrile as the tabloid press in the UK⁸², the media still plays an important role in shaping debates and informing political opinions, increasingly influencing a more responsive and immediate type of politics.

As has been already alluded to throughout this chapter, over the past few decades there has been growing fears surrounding crime, nuisance, and particularly immigrants which have been accompanied by toughening attitudes towards penal-welfare ideals such as resocialisation with growing preferences for tougher approaches:

'The support of the public for resocialisation has gone from 70% in the '70s to only 30% now... Do you support incarceration policies or something like this, and this had a steep increase from 20 to 70%' (NL-A1: Academic Expert in Social Sciences)

Notably, it is suggested that cannabis and coffeeshops became one of the targets that was interlinked with these concerns. As in England & Wales, participants noted that these concerns and fears were primarily driven from the conservative middle class, in response to

⁸² 'I think it is rather calm, much more calm. Our right-wing tabloid, de Telegraaf, but comparing de Telegraaf to The Sun it is very calm. But I think the mechanisms of what I call the political-media complex are moving in a direction that... the dramatization, images instead of facts etc., are working here in that direction which makes it more difficult to get a relaxed policy.' (NL-CS-AC-CJ)

perceived threats and risks from outsiders⁸³. But despite seemingly demonstrating a more punitive framing of cannabis policy, the issue of cannabis divides people sharply, and whilst overall responses to crime have hardened, there is still strong support for liberal policies regarding cannabis:

‘There is a tough on crime climate, a punitive turn, also more rhetorically than fact, but, the Netherlands is still so a liberal country, this is a paradox. Most people in the Netherlands are still in favour of the use of soft drugs, 70% or so, maybe 80... The same people voting for Wilders, PVV, are in favour of soft drugs.’ (NL-A1: Academic Expert in Social Sciences)

Overall it was suggested that the media views on cannabis policy are fairly balanced, again between two dichotomised positions, but liberal values really came to the surface as a dominant counter-narrative when it became apparent coffeeshops were under threat, with strong public and media critiques of the *wietpas* which has seemingly only served to further fuel the desire to regulate the back-door:

‘...it has provoked a response and now people are really waking up, they are seeing in the streets the result of this prohibitionist policy and they say we don’t want it.’ (NL-NGO2: Drugs Policy Reform Organisation)

‘...from the media it has become clear that this *wietpas* has been strongly criticised and has negative side effects in those cities which had these tourists’ (NL-A2: Academic Expert in Criminology)

The role of the national mood then, is that it propelled concerns into the political sphere, but also served to counter what was seen as overly-repressive set of measures which helped influence the revision of the measures introduced in Rutte I. Whilst not capable of fully reversing policy, which is rather uncharacteristic of Dutch policy-making, the national mood is a key contributory factor in accounting for how and why policy took the direction it did.

⁸³ ‘...people who are reshaping themselves as somewhat modern conservatives. They had a lot of privileges and rights in the last decades of the last millennium when it went very well, and they are afraid to lose them due to globalisation or due to foreigners coming in or whatever. There are political parties in the Netherlands, three specifically, who are investing on it, dragging the right-wing liberals more to the right because they have to respond, and people are afraid so what do you offer them? Law and order... cannabis is an easy topic to do because the cannabis users don’t vote for those kinds of parties so it is a free ride for them to have it law and order and they are supported by the Christian Democrats because the Christian Democrats never really like liberal tolerant drug policies.’ (NL-PA1)

The final component of the national level analysis of the policy process relates to the role of organised political forces existing within, beyond and below the state which both contributed towards the initial policy changes and served as a major point of resistance which influenced the ‘mellowing out’ [NL-NGO2] of measures in Rutte II.

First, it is important to note that there are still strong liberal and welfarist values entrenched within practitioners and civil servants involved in drugs policy. Given that drugs policy is driven by a health-oriented harm reduction perspective, there was particular critique of the repressive measures against cannabis and coffeeshops from elite actors working within health, such as academics represented on the two commissions, and from civil servants working in the Ministry of Health, Welfare and Support. In addition to a more humanistic conceptualisation of drug users, it was suggested by civil servants working within the health ministry that there were clear cultural divides between the Ministry of Health, Welfare and Sport, and the Ministry of Security and Justice. This can be seen, for example, in terms of discussions with stakeholders. Whilst the Ministry of Security and Justice does not engage with coffeeshop owners under the current Minister, purportedly due to the notion that coffeeshop owners are in themselves criminals and therefore should not be at the political table, it was suggested that the health ministry is more open-minded to being inclusive:

‘...the ministry that is responsible for security and justice does not talk with anyone having a coffeeshop or producing cannabis because for them they are all criminals and they say it like this... They have their closed circuit, we try to be open-minded and talk with everybody but it’s very difficult to break their circle, their kind of dimension.’ (NL-CS-AC-H1: Senior Civil Servant in Ministry of Health, Welfare and Sport and Member of Garretsen Commission)

Compared to England & Wales, where the Home Office dominates the debate in a closed-off and dogmatic way, the impact of opening the space up and placing responsibility to the health ministry provides a valuable political voice which appears to be more grounded in reliable research data and evidence and less prone to the all-too-familiar emotional and expressive display of power with criminal justice. Whilst its effectiveness of preventing criminal justice measures may only be limited, it served as a disgruntled voice which was aired against the coffeeshop measures introduced in Rutte I:

‘...the problem with the wietpas, the whole night we were discussing this of course with our colleagues before it was implemented, and we said it is going to be a big problem because

markets are going to be diffused, a lot of people do not want to be in a database... We said if you are going to do it like this nobody will come and they [Ministry S&J] said oh no these people are way too stoned they are not going to care. Really, that was the answer... And oh, what a coincidence, when the pass was introduced we saw a dramatic decrease in people going to coffeeshops because they had to be in a database' (NL-CS-AC-H1: Senior Civil Servant in Ministry of Health, Welfare and Sport and Member of Garretsen Commission)

The worries encapsulated in the notion of having to register for an activity which was technically illegal came to be signified in the social construction of the *wietpas*. This served as a suitable target for counter policy communities to join together to object to the new measures, and so resistance against the residency, and particularly the closed club criteria, came '...from users, coffeeshop owners, politicians, the local, everyone' [NL-A-AC-H1]. The *wietpas* came to embody a critical and suspicious fear that the government was over-extending its powers in the civil liberties of its citizens, particularly in relation to plans to create a membership list⁸⁴.

Moreover, in addition to resistance and contestation from the Ministry of Health towards the residency and closed club measures, there was also resistance from the Public Prosecutor's Office particularly in relation to the proposed introduction of the THC divide:

'...we often say inside here that we are busy doing the prevention of new measures, policy prevention, instead of developing or formulating new policies, because there are so many new ideas and a lot of them don't make much sense so we try to stop them instead of further development.' (NL-PP4: Policy Worker, Public Prosecutor's Office)

In relation to the THC divide, those working within the *Openbaar Ministerie* (Public Prosecution) suggested that this was not going to be a meaningful policy change because of the difficulties involved in enforcement. Samples of cannabis from each coffeeshops for each type of cannabis sold would feasibly have to be tested for its THC content, but the resources available to do this are nowhere near sufficient enough to handle the operation. It was estimated that there is room for approximately 1600 tests per year, but the requirements of enforcing this change in legislation would require 20,000-40,000. So the chances would be that on average, a coffeeshop would be tested once every two years.

⁸⁴ As an official policy letter states: 'The list is controllable and contains the name, postcode and date of birth or residence of a member. The member list also contains a start date and an expiration date of any membership. The list of members must have an appearance so that it can be displayed or may be handed over to check physically.' (Tweede Kamer 2011c:1-2, author's translation).

Despite a rather crude image of the Ministry of Security and Justice which I have constructed, it is also salient to note that whilst there appears to have been a decline of influential 'platonic guardians' in favour of knee-jerkism and policy immediacy, it became apparent from interviews with a senior civil servant working there that liberal notions such as resocialisation are 'underlying, you can't get rid of it.' (NL-CS-AC-CJ).

Across a range of institutions and agencies there appears to be signals of a more vocal and influential liberal orientation towards policy as compared to England & Wales. The inclusion and necessity of different actors and organisations (in the sense of the power to govern) to be involved in drugs policy allows for preventative 'buffers' from populist-driven values. This allows for different, and more rational, pragmatic and evidence-based opinions, to surface which becomes more evident once you move past the policy talk.

A final component of vital relevance in the political stream relates to the role of local municipalities in creating, adapting or resisting policy. Already, certain characteristics have been discussed in the preceding *subnational policy process* sections, but here the purpose is to highlight the mechanisms and processes evident at a broader national level which led to both advocacy and resistance towards the introduction of new national policy measures under Rutte I and II, before returning to a comparison with the local case site.

In many ways, cannabis policy is very much grounded in the needs and experiences of the local level, with the *gedoogbeleid* originating out of existing local practices, and whilst there have been indicators of greater centralisation (e.g. police force restructuring), it was also argued that decentralisation has also occurred.

The importance of overtly 'giving room' to the local level is that local municipalities have to deal with the 'daily problems' [NL-A-NGO2] which are not experienced in The Hague. As one participant noted, '...there is always a distance, and we need that because when there is no distance I am a dictator' [NL-A-NGO1], reaffirming the notion of a perversion towards over-zealous state paternalism. As suggested in previous sections, another important reason for allowing local differentiation in policy is that municipalities can experience vastly different issues and problems which are specific to that area or region, and therefore require tools which respond in an adequate way.

A structural mechanism which grants the local level a considerable voice can be found in powers of governance relating to cannabis policy. Primarily, issues concerning coffeeshops are a public order and health issue, which is under the governance of the local Mayor, Aldermen, and council⁸⁵. Such relations of governance, in a wider socio-historical

⁸⁵ 'It is to do with the basic idea that the drugs problem should not be treated as a crime problem in the first place. It should be considered as a matter of public order, public health. So it is outside of the

context of a 'regent mentality', have granted considerable power to the local level and to mayors which has become extremely significant in giving them a voice in advocating or resisting planned measures at a national level.

Although municipalities do have an influential degree of power within the Netherlands (which will be further discussed in due course), it is pertinent to also remember the technical *inabilities* of local mayors within an *international* context to carve policy solutions to the influx of foreign visitors in affected southern municipalities. The effect of this was to bring together a loose coalition of local mayors who lobbied the national government to intervene. The calls of these mayors, from varying political backgrounds, for support tackling a salient problem was coupled with the political desires and needs of the right-wing political parties who took power in Rutte I:

'...the report [van der Donk], this one and the other reports, they gave a reality shock. And the reality shock, not from one of these strange academics in an ivory tower thinking about the world, but my arguments were fortified by mayors, liberal mayors, left-wing mayors, who said we can't handle it anymore we just close it down... this gave a lot of discussion in these centre-left, left-wing parties because their own mayors close down. It was not just these awful right-wing extremists who are using the fear of crime... they are just mayors of flesh and blood who are doing it' (NL-A-AC-CJ: Academic Expert in Criminology and Member of van der Donk Commission)

Whilst mayoral and municipal pressure was a factor in advocating more repressive measures in Rutte I, we see a rather different picture emerge once the new measures were announced and began to be trialled which centred on resistance in their national implementation. One key factor contributing towards this resistance concerns differences in political colours found at a local level. The types and combinations of parties involved at a local level are much more varied than one would find at a national level and can lead to divergences between national and local levels even within the same party across different municipalities:

'There is also a gap between the national politicians within a certain party and at a local level. Maybe because they are in different coalitions, but the liberal party [VVD] has the reputation of a bit more liberal in the left-wing sense, more tolerant towards deviance.' (NL-A2: Academic Expert in Criminology)

judicial authorities primarily. So the judicial authorities are only taking part in the whole discussion once there are certain lines crossed.' (NL-PP4).

It was noted that broadly speaking, rural areas are more characterised by conservative political coalitions, whereas urban cities are more heavily dominated by liberal coalitions and mayors. This is a pertinent issue given that municipalities with coffeeshops have over four times more inhabitants than municipalities without. In other words, coffeeshop density is positively associated with urban density, with 53% of the total number of coffeeshops being in municipalities with over 200,000 inhabitants (Bieleman et al. 2012). Significantly, out of the top 11 largest municipalities, 9 of these were governed by 'progressive' parties (most often PvdA) (Wouters et al. 2010):

'...from the bigger towns, [they] are much more dominated by the Social Democrats [PvdA], and they are more lenient, tolerant, and they don't want to hamper the consumption of drugs and they want to regulate the growing of wiet [cannabis]' (NL-CS-AC-CJ: Senior Civil Servant in Ministry of Security and Justice and Member of van de Donk Committee)

This is especially important given the political dynamics of the VVD being in a national coalition with the PvdA. But besides from coffeeshop density, the *grote vier* ('big four': Amsterdam, Rotterdam, Den Haag, Utrecht) occupy a 'special position' [NL-P2] in the political realm as they experience the bulk of problems found in urban environments:

'The opposition was coming from the large cities mainly, and that was strong opposition, and cities have rather strong positions in our country... Our local government has become stronger over the years, more tasks, more money, and a rather good position in our own community.' (NL-PA3: Policy Advisor to the Mayor, Utrecht)

Moreover, in larger municipalities such as Amsterdam, mayors often have a 'political history' and '...they still have a lot of influence so they don't take anything for granted and they are a force, they can speak against the minister' [NL-PP1]. These facts mean that they are given more political relevance in directing and influencing policy change at the national level. Even within this, Amsterdam has an even more privileged position, especially concerning coffeeshop policy. Amsterdam by itself accounts for most of the coffeeshops in the Netherlands with over a third of the total number (222 out of the 651 in 2011, Bieleman et al. 2012). The measures proposed under Rutte I would have had devastating effects on the total number of coffeeshops in Amsterdam and would have threatened an economic interest⁸⁶ by

⁸⁶ Economic interests associated with the cannabis trade do not only pertain to municipal councils, but also to the coffeeshops and other parts of local economies. For example, coffeeshop owners have attempted to challenge the measures, most notably in Maastricht where the local coffeeshop owners

banning tourists from visiting one of its liberal spectacles. But also, there was a sense of powerful municipalities 'acting out' against the arm of control from The Hague.

Importantly then, the proposals to introduce a nationwide policy which required these large municipalities to apply rules to a situation in which they were not experiencing cannabis-related nuisance problems created significant tension and resistance in implementing the new measures. In reaction to the new measures, the *grote vier* rallied against implementation, with serious objections vocalised:

'...the problems in the south of the Netherlands are completely different to the problems in Amsterdam for example... if they come to Amsterdam and they are not allowed in the coffeeshops it will cause a lot of nuisance and criminality, the selling of drugs on the streets instead of in coffeeshops, in Amsterdam it's not a good idea at all. The mayors of the big cities, Amsterdam, Rotterdam, are against this wietpas and asked the minister not to introduce it in these big cities.' (NL-A-AC-H1: Academic Expert in Health and Member of van der Donk/Garretsen Commissions)

The power of the *grote vier* in rejecting policy proposals raised serious questions of government legitimacy, and as such there was a need to reconcile and compromise with these municipalities and others in order to proceed. If Opstelten did not listen and compromise with the municipalities, it would have given him 'political problems' and so he needed to give room '...to show that he is not a centraliser' [NL-CS-AC-CJ].

To briefly summarise then, organised political forces lying dormant reacted strongly to the planned introduction of a set of measures which were largely seen as counterproductive and ineffective. They threatened the liberal values and practices which, on the whole, largely existed without serious nuisance and youth problems, as well as the economic interests of predominantly Amsterdam and of the coffeeshop owners. In some ways Minister Opstelten was put under severe pressure, and whilst insubordination could have been dealt with through an enforcement order, this is not characteristic of the nature of Dutch politics which is still premised on some of the fundamental ideals of the polder model. Moreover, it would have created unsustainable political tensions between the VVD and the PvdA, who were represented in most of the largest municipalities with most of the coffeeshops. These dynamics are extremely important when considering the policy movements that have occurred in Rutte I and II because the 'force field' [NL-CS-AC-CJ] of the

have joined together to take legal action against the government. But so far, courts in both Holland and in Luxembourg have failed to accept any wrongdoings by the Dutch government.

local provides a significant political force in raising problems, setting agendas, and reworking policy.

6.5.2 The Subnational Political Stream

This brings us on to the final intra-national point of comparison, to examine the specific role and attributes of the subnational case site in the political stream. Already, it has been argued that the municipality of Utrecht was a strong opponent of the measures introduced under Rutte I. They have effectively chosen a policy of non-enforcement regarding the residency criteria and even advocated the initiation of other, more radical, policy alternatives which they felt would address the substantive policy concerns (of cannabis cultivation) more appropriately.

But despite this being the case, it is worth noting that municipal politics follows relatively similar dynamics in the processes of coalition-building and governance as at the national level with much contestation in policy-making at the subnational level. For example, the proposal to start a cultivation experiment was not universally agreed upon in the city council, with parties such as the CDA heavily against the plans⁸⁷.

Moreover, it was suggested that there is increasing pressure in the local council to counter nuisance problems which is slowly shifting attitudes towards being tougher against coffeeshops that transgress the rules. In some cases, this has been successful in the sense of granting extra resources to police troublesome streets and areas.

However, a further point is of relevance here: that even though there may be pressures exhibited at a local electoral level, there is a demarcation between locally elected politicians who form the municipal council, and the executive body consisting of the Mayor and Alderman (*College van B&W*). Thus, whilst the remit of the council is to decide the municipality's broad policies and oversee their implementation, the administration of policy falls to individuals who are not directly elected⁸⁸. This is particularly complex regarding cannabis policy, which at a local level is considered both as a health and public order issue, thus falling into the remit of an Alderman and the Mayor. Such structures of governance may potentially provide some counterbalance to negative feelings towards cannabis and

⁸⁷ '...that is the one we really protested against, come on, the municipality is not a coffeeshop. Even if we accept that we have coffeeshops and people are going to use it, it does not mean that from this house we are responsible for organising it... I can see a lot of just practical problems and I think it is not the way the national law was intended to work' (NL-P4).

⁸⁸ Alderman are appointed by the municipal council, whilst Mayors are appointed by the Ministry of Interior and Kingdom Relations, and validated by the Crown, with advice for preference given by the local council.

coffeeshops, with such actors being insulated from local electoral opinion and able to negotiate and carve alternative responses.

The overarching policy regarding cannabis is decided upon in the council, but the Mayor has special duties requiring him/her to engage in 'tripartite consultations' with the chiefs of police and prosecution who negotiate and decide upon prioritisations and resource allocation set within mayoral, national and police/prosecution needs.

In terms of accountability, the responsibility of Aldermen and the Mayor is at first to the local council rather than the national government, and this provides a mechanism whereby support is fostered for policy development and resistance against unfavourable national measures:

'They can't control local governments. The highest level of government in your city is the city council, they decide and not a minister... I am responsible for health issues in my home town and there is nobody who can say if I have to do this or that. That is my way how I can go forward if I still have the majority in the city council who is supporting me.' (NL-P5: D'66 Alderman, Utrecht)

This has a very important role in the development of policy, with most drugs policy initiatives starting at the local level before being made national policy, and this is facilitated by the ability (at least in theory) to trial and experiment as was enshrined under the 1976 Opium Act. With regards to the cultivation experiment, it was because it was justified as a health project which hypothetically removed it from the remit of security and justice. But manoeuvrings at the subnational level are allowed because it is recognised that the local level has to deal in pragmatic terms with surfacing problems which become abstracted at a national level of policy-making:

'All big changes always start at a local level. Why? Because we see the deficits of the policy, and we see the urgency of change and the problem with tackling this problem is that at a national level you have to have a really strong political will' (NL-P5: D'66 Alderman, Utrecht)

In terms of the specific direction of policy responses, this was due to a municipal coalition comprised of left-wing parties. It was noted that the 'spirit of the people' [NL-PP5] is one which supports a 'real' [NL-P5] and 'full' [NL-P2] left-wing political representation within the local council. Whilst there has been a degree of voter movement as experienced throughout the Netherlands, there is a large continuity in support for liberal parties. During the period of 2010-2014 the municipal coalition was comprised of GroenLinks (Green Party), D'66 (Social

Liberals) and PvdA (Labour). When it comes to the issue of drugs and cannabis policy, all these parties support measures which would seek to regulate the back-door, none more so than D'66 for whom it is a central political item, and took issue with the direction of policy that was initiated in Rutte I. Moreover, there are local historical trends in support for liberal programmes with drugs policy, for example with the introduction of heroin prescription, which again was against the national grain of drugs policy at the time (see Central Committee on the Treatment of Heroin Addicts, 2002).

So whilst cannabis policy is contested within the city council, it is predominantly controlled by left-leaning coalitions. The feeling even by right-leaning politicians was to accept the inevitability of cannabis consumption and the use of coffeeshops locally which prevents any radical changes from being considered such as the complete closure of coffeeshops:

‘...we understand the market is going to be there anyway... you cannot say Utrecht is a drugs-free zone because if you are going to the streets somewhere you cannot control it, our alternative has been to put a big drive-in coffeeshop in one of the industrial areas where it is out of sight and it can be easily controlled by the police... I believe that it will not solve the medical and those kind of issues, but at least it will solve the social effects of the coffeeshops.’
(NL-P4: CDA Politician, Utrecht)

As such, political negotiations from the perspective of right-leaning parties within the city council are more fixated on dealing with the undesirable social effects that are associated with coffeeshops. This is particularly the case when a set of left-leaning parties, who all broadly agree on the position on coffeeshops, has control of the local council, and whose representatives occupy the positions of Aldermen and Mayor.

But looking outward from the local back to the national, it is conceivable that it was the specific combination of parties in control in the municipal council at that moment in time which was very important in challenging the specific set of parties at a national level which represented a ‘full’ right-wing government. The national measures uneasily rubbed against the political preferences of the municipal council who wanted to move in a different direction with cannabis policy. But also, the coalition in Utrecht facilitated the advancement of alternative policy agendas (notably the cultivation experiment) which might not have been agreed upon had other parties been represented in the ruling coalition, thus highlighting finite windows of opportunity for moments of resistance or advocacy of policies.

In an important way, resistance against the new measures transcended the issue of cannabis to represent a disdain with the politics of national government within a particular

political climate. The proposals for cannabis cultivation were seen by some as a symbolic attempt to confront the national approach, with Utrecht serving as the 'spokesman' of resistance:

'It is really symbolic to say locally, we are going against the national trend and we believe we as Utrecht can be the front runner and can do things which are on the edge of what is legally allowed to start moving this way' (NL-P4: CDA politician, Utrecht)

'...we are the spokesman to at least put this on the table again and again and again, and even making progress in our own way to see if something could be done' (NL-P5: D'66 Alderman, Utrecht)

'...everything that government [Rutte I] did was reflected here in the opposite way in Utrecht because it is the 4th biggest city and it has a full left government and at that time it was seen as a sort of, the opposition against the national government' (NL-P2: VVD Politician, Utrecht)

The intentions of Utrecht generated significant tensions between local and national government. As a policy advisor and official policy statement by Minister Opstelten noted:

'...when our alderman and mayor published the idea, within half an hour there was a reaction from our Minister Opstelten who told us there was nothing on it... Dismissed at once within half an hour. I've never seen it before, that such a rash and direct reaction.' (NL-PA3: Policy Advisor to the Mayor, Utrecht)

'The core of our policy is that any kind of cultivation of cannabis is illegal and remains prohibited. Experiments such as the municipality of Utrecht represent conflict with applicable legislation and international obligations' (Tweede Kamer 2011a:5, author's translation)

Whilst it remains the case that local plans for such experiments are firmly rejected by Minister Opstelten, there is growing support across many municipalities for regulation of the back-door. The important aspect here is not so much the substantive content of such programmes, but the feeling that the new measures inadequately tackled the major issue at hand of cultivation and supply to coffeeshops. Following decades of local grass-roots development of cannabis policy, these are, at the least, symbolic attempts to shift the direction of cannabis policy which may eventually make an impact when a suitable window of opportunity opens.

Thus, the complex particulars of subnational spheres are an influential shaper not only of policy debates at a national level, but due to relations of governance which grant significant power to municipalities, also allow for resistance and policy alternatives to flourish at the subnational level of policy-making. The position of Utrecht as a member of the *grote vier* elevated its powerful status, which coupled with a firm political coalition of left-wing parties and liberal ‘spirit of the people’, has given it significant room for manoeuvre in both the non-enforcement of the residency criteria and attempts to move in a different direction with cannabis policy.

6.6 Summary of the Policy Process in the Netherlands

Changes to the coffeeshop tolerance policy in the Netherlands can be seen as a coming together of the problem, policy and political streams, which in combination with suitable windows of opportunity, allowed for the introduction, and subsequent revision, of new coffeeshop criteria. The window of opportunity regarding the first set of changes has arguably been open for some time, with the culmination of a series of longstanding and emergent problems which have remained largely unresolved. However, with policy entrepreneurs in the shape of dissatisfied local mayors in border regions lobbying the government for assistance, a window of opportunity firmly opened, reinvigorating the debate on cannabis policy. The problem stream became coupled with the policy and political streams following the conclusion and recommendations of the expert commission van der Donk. The policy selection process at a national level in the Netherlands was one which was relatively flexible and the primeval soup in the Netherlands was, and is, bustling with ideas and proposals which are ‘seriously’ considered within the political sphere. However, the direction of policy and the specific policy measures initially chosen was not just a logical sequencing based upon expert advice and technical parameters, but also resonated with dynamics in the political sphere. Here, the swing to the political right in Rutte I created a ‘unique’ opportunity and catalyst to press forward with a set of stricter measures.

However, the initial policy alternatives selected and partially implemented then immediately faced opposition and resistance from numerous actors and agencies operating within and below the state which forced the window to remain open. The measures posited under Rutte I were considered unsavoury, unworkable, and challenged the fundamental essence of the health-oriented and liberally-inspired separation of markets philosophy. Thus, there were evolutions in all three streams, whereby new problems emerged, the Rutte I policy measures were adjudged inadequate, and the Rutte I Government was replaced with

the more politically-centrist Rutte II. The result of this process is that the initial measures have been 'mellowed out', with flexibility given in how the remaining measure is to be introduced at a municipal level. In sum, the changes to the *gedoogbeleid* illuminated the complex myriad of dynamics involved in the policy process which led to a more incremental and reflexive style of policy-making. Similar to England & Wales, such policy movements were facilitated by a series of cultural, institutional and situational factors which will be further delineated in the following chapter.

In terms of how these changes unfolded into the subnational sphere, the relations of governance between central and local authorities facilitated dialogue and resistance towards the new measures. Although there was a degree of convergence regarding the proliferation of recognised problems, the types of issues considered problematic were deemed relatively minor in comparison to the experiences being felt in the south of the country. As such, the municipal council has adopted an official policy of non-enforcement whereby it will only be enforced if problems from foreign consumers are encountered. The local case site adjudged the Rutte I measures to be counterproductive rather than dealing with the 'real' problem of cultivation in a way appropriate to the political values of the local council. Thus, the counter voice emanating was made possible by a 'full' left-wing coalition and a strong history of support for liberal parties. This represented an opposite picture to the representation at a national level. Coupled with the *ability* to govern coffeeshop policy in a meaningful way, this has allowed policy alternatives to flourish and contest the national approach.

Such patterns of negotiation and reworking of policy had a role in influencing the 'mellowing out' of the original measures, and with growing support for regulation of the back-door from the local level, demonstrates the continuing role of the local level in policy development which has reaffirmed the beneficial role of the separation of markets. Referring back to the opening quote of the chapter, it would appear then that in policy terms, 'the soup is never eaten as hot as it is served'.

Chapter VII

Comparing Cannabis Control in England & Wales and the Netherlands

7.1 Introduction

This chapter provides a cross-case analysis of the nature and extent of convergence and divergence towards repressive strategies of cannabis control across and between the two polities as a whole. First, there is a discussion of the ways in which convergence towards non-adaptive strategies has been felt in cannabis control, with the transformation of cannabis, a shifting political environment, and the technical parameters of policy. Then, the chapter considers the ways in which England & Wales demonstrates divergence away from non-adaptive strategies of control, examining differences between policy talk and decisions, the extent of contestation and resistance, the role of political institutions and relations of power, before finally highlighting the role and differentiated nature of policy at the subnational level.

Through the identification of factors and mechanisms which support, resist or rework policy at national and subnational levels which were alluded to in previous chapters, the international comparison will draw these more into focus. This will allow us to further illuminate the contingently messy configurations and resistances apparent in cannabis policy responses in particular geo-historical contexts (Edwards and Hughes 2005; Hughes 2007).

7.2 Convergence in Cannabis Control

7.2.1 The Transformation of Cannabis

Across both England & Wales and the Netherlands, the findings suggest that there has been converging tendencies in the emergence, resurfacing and projection of problems related to cannabis during the mid-2000s. This is not to state that alternative conceptualisations disappeared, but that narratives which centred on its dangerousness came to the fore in policy debates and became ways to justify policy change. Such trends are intimately connected to the place of cannabis in the political sphere and broader currents in the politicisation of crime, drugs and security (see section 7.2.2).

In an important way, changes in the conceptualisation of cannabis can be partly seen as the emergence of strains and pressures that emanated from a transition to late-modernity, whereby developments in technologies, transportation, and communications have further

facilitated an unregulated illicit drugs market. There have been very similar points of convergence in the types of problems experienced and conceptualised as well as specific differences in each polity. Their recognition and framing as objects requiring a policy response alerts us to the presence of converging common factors shaping contemporary cannabis control strategies.

First and foremost, cannabis has been conceptualised increasingly as a criminal justice problem. In both countries, large-scale commercial *domestic* cultivation has emerged as a significant threat. This is seen to pose an altogether different problem from that which preceded it; no longer does the risk exist beyond the borders of these nation states, but it has become embedded within them. This is considered a problem not least due to increased visibility and presence, whereby technological innovations have facilitated cultivation in virtually any setting, but also due to the scope of cultivation and the links between large-scale cannabis factories and organised networks who delve into a multitude of criminal activities.

This concern was propelled onto the political agenda by law enforcement agencies who were spending more time tackling the issue and reporting a growing problem in relation to cannabis cultivation. The prevailing narrative prior to policy change was that law enforcement agencies in both countries were not adequately equipped to tackle the issues that had arisen in part from existing policy responses. In England & Wales, the 2004 reclassification created a sense that the police had lost authority to manage cannabis users and had encouraged criminal entrepreneurs to cultivate cannabis in large-scale operations; and in the Netherlands, the perennial problem of not resolving the back-door problem had encouraged criminal entrepreneurs to take advantage of increased market demand.

These issues were intrinsically linked to a further perceived growing problem, that cannabis had become associated with public (dis)order. With the erosion of state borders following the creation of the European Union and the Schengen Agreement, vast numbers of individuals from the Netherlands' neighbouring countries took advantage of the more 'friendly climate' [NL-A-AC-CJ] of buying cannabis in coffeeshops rather than in their more hostile native countries. This has led to municipalities lying on the borders of Belgium and Germany becoming inundated with cannabis-related nuisance. Increasing numbers created a demand for vast quantities of cannabis which only a network of large-scale organisations could provide. In England & Wales, the 2004 reclassification was also coupled with an association with fears over anti-social behaviour; that a relaxation in the laws would lead to a disrespect of police authority and an increase in public consumption.

Furthermore, as concerns over cannabis-related criminality and public disorder came more into political focus from around the early 2000s onwards, this coincided with a further

shared problem that (re)surfaced: that cannabis transformed from being seen as a relatively harmless substance, to one which was extremely dangerous for mental health, particularly in relation to young people. Psychiatric studies provided 'evidence' of the link to schizophrenia, and such worries were amplified by the connection to high-potency cannabis, commonly found in domestic cultivation practices. Health institutions were confronted by more people entering treatment for cannabis-related issues.

The medicalisation of cannabis over the past decade has focused on schizophrenia, but expert participants both within medical professions and further afield across both countries suggested that the growing political emphasis on the link between young people, cannabis and deviancy (both socially and medically) reflected a degree of biological determinism at the political level. This centred problematic behaviour around the psychopharmacological effects of cannabis, with reduced attention paid to wider social structures and developments which may also have contributed to problematic behaviour. Social abnormalities are blamed on the use of cannabis, and whilst it may indeed play a role, the types of explanation employ the 'criminologies of the other' (Garland 1996; 2001); in this case, the danger is the foreign substance in the pure body which causally affects the onset of perceived negative behaviours. Cannabis has become a 'suitable enemy' which has been further demarcated from socially accepted substances (Christie 1986).

Taken together, the issues surrounding criminal justice, public disorder and health became all the more alarming in the public domain due to the fact that cannabis is the most widely used illicit drug. The threat does not lie just in the margins of society with undeserving social undesirables, but has permeated social strata in a perceptively widespread manner. The effect of this was that it also helped reinvigorate and reconstitute a moralistic position on cannabis in both countries: that its use is morally wrong, and is especially so given the range of harms that have emerged.

So not only was cannabis linked with serious criminal activities and caused deviance in the sense of 'illness', it was also constructed as morally corrosive, reducing citizens' productive participation in society, a threat to the common good. Importantly, the moral imperatives became heavily enshrined in medicalisation, which in an era of religious indifference has disguised traditional notions of drug-taking in the veil of medical deviance. As Conrad and Schneider (1992:1) note, 'deviant behaviors that were once defined as immoral, sinful, or criminal have been given medical meanings... in many cases medical treatments have become a new form of punishment and social control'.

But how the problems associated with cannabis have been recognised as such directs us to consider the changing nature of identifying risks and threats, which have been

facilitated by the rapid acceleration of technological and scientific developments. These, in and of themselves, are not just objective germ-free responses, but also contribute to the way in which social phenomena come to be understood, recognised and indeed evolve.

In a globalised setting, and particularly that of the European Union, policy ideas and responses do not develop in isolation from other countries. Research and knowledge networks facilitate a global exchange of ideas; techniques of data generation and monitoring are expedited through computerisation; and communication has been made easier through the establishment of formal and informal international bodies and agencies such as Interpol, UNODC and EMCDDA. It is within such spaces that knowledge is transferred, as practitioners and experts meet, collaborate and share information. As Edwards et al. (2013a:378) note, there is '... a growing number of emergent actors, networks and occupational practices involving innovative but as often, 'borrowed' methods and technologies for both articulating and governing the new 'problems' of public safety and urban security'.

The direction of travel does not appear to be a mutual process however, with certain key players informing and shaping debates more than others. It was alluded to by several Dutch participants (police and academics) that there had been a degree of 'westwind' [NL-A1] knowledge transfer, with the suggestion that the United States and the UK have been very influential in shaping discussions of crime control. Such patterns have been observed elsewhere in the area of policing with 'policy learning' between England & Wales and the Netherlands (Jones 1995; Jones et al. 2009). Whilst this is a tentative finding which requires more empirical examination, language accessibility and geo-political power on the global stage appear to be important aspects which have facilitated such developments.

Problem recognition then is not a neutral process, and involves the coupling to moral and normative judgements in a vacuum of power struggles in different spheres of governance. The definition of a problem serves to further legitimate power from definition-givers, to diagnose and respond to behaviours in a way which justifies their own being and grants support for further action and control. This does not only pertain to national imperatives, but also in institutional settings. Law enforcement agencies require greater resources to tackle organised criminal networks involved in cannabis cultivation; medical professions seek more investment to treat cannabis-related illnesses. In both senses, deviance from the norm is not questioned in its fundamental basis, but is constructed through the lens of particular institutional and cultural settings. As Freidson (1970:208) notes, 'it is part of being a profession to be given the official power to define and therefore create the shape of problematic segments of social behavior'. With better identification of criminal

justice and mental health issues, it appears that a process of labelling and net-widening ensued (Becker 1963; Young 1971; Cohen 1985).

The media and interest groups in both countries were also influential in shaping the debate, with a series of loosely connected policy entrepreneurs joining together to lobby for change. Some of these individuals and organisations were more firmly aligned in the traditional political sense (e.g. concerned constituents/lobby groups/parties), whilst others shared a common desire for changes to cannabis in pursuit of their own organisational interests (e.g. law enforcement; health professionals; municipal councils).

Whilst it was suggested that in comparison the Dutch media are far less dramatic than British media outlets, similar pressures are facing media outlets to produce dramatic 'newsworthy' stories. This has a discernible impact on the policy process, as problems and concerns become extrapolated beyond specific locales. As Garland suggests (2001:86), 'risks and problems that were previously localized and limited in significance, or else were associated with specific groups of victims, increasingly came to be perceived as everyone's problem'. In the Netherlands, coffeeshop-related nuisance and the relationship to criminal organisations became generalised to cover all coffeeshops in all municipalities; and the perception of damaging harm came to be present in every cannabis consumer.

The effect of the emergence and projection of these problematisations contributed towards a 'negative societal feeling' [NL-A-AC-H1] in both countries which grew from the early 2000s. In England & Wales, for example, this was evident in an Ipsos MORI poll that found that 58% of the public wanted to see cannabis reclassified to a higher classification, with 32% suggesting it should be Class A, and approximately 75% thought cannabis contributed towards crime or social disorder (Ipsos MORI 2008). This is not to suggest that such perspectives permeated *all* sectors of society and across the citizenry (as 42% in the same poll wanted it to remain Class C or be legalised), but that influential policy entrepreneurs shaped the policy debate in a meaningful way that impacted upon the policy process in appropriate windows for such voices to be heard. Thus, an anti-cannabis climate was one present in particular communities, which, during a period of competitiveness over issues of 'law and order' and political instability, came to shape how issues were construed and projected with desires for repressive action.

Thus, the prevailing representation of cannabis was one which was under attack on a number of fronts, triggering political anxieties and a sense of crisis that the respective governments were not adequate in addressing public concerns about 'victims' falling prey to a widespread and unwelcome threat (Cohen 1972; Garland 2001). This is where the problem stream became coupled with the policy and political streams, which has taken policy in a

specific direction; a direction which on the whole has seemingly converged towards the need and desire for both nation states to project an image of the paternalistic provider of protection from a reconstructed threat.

7.2.2 A Shifting Political Environment and the Need to Act

Alongside the transformations of cannabis, this existed within a broader social and political environment in which moral authoritarian values became a prevailing 'currency' in dealing with issues of crime, security and illicit drugs at a national level for those in power (and particularly so with key social actors such as Gordon Brown and Ivo Opstelten at the time of the changes). Based upon the empirical findings about these specific policy changes, this seemingly suggests that there has been some convergence around a decline of penal-welfare values, and a favouring of values which project an image of ruling governments as strong and protective. This suggests confirmation of desires to 'deny' state limitations and reaffirm the 'myth' of sovereign political legitimacy through more repressive, and expressive, responses (Garland 2001).

In both jurisdictions, broader patterns of political representation over the past few decades suggest a shift towards the political right (see Chapter 2) which has granted a more influential voice to the types of values which such parties hold regarding illicit drugs and crime. In England & Wales, New Labour under Gordon Brown reacted to the perceived mistake of their own earlier decision to reclassify cannabis to Class C which had been reconstructed as the government being irresponsible in the face of emergent problems associated with cannabis. With Gordon Brown coming to power, there was a political desire to demarcate himself from Tony Blair, which in addition to his own religious and moral values, appealed to a critical set of voters from conservative 'middle England' who had been so vocal in objecting to cannabis' downgraded classification.

Similarly, the VVD and CDA appear to have become more repressive concerning cannabis and criminality in a context where 'grey' responses such as the tolerance policy are found to be increasingly unpopular. The success of the extreme right, and particularly Geert Wilders' PVV in the areas of crime control and immigration, has generated greater voter competition and volatility in an increasingly politicised environment with political parties keen to demonstrate their law and order credentials. Whilst the issue of coffeeshop policy has not been a central theme in this overall development, cannabis became an important symbolic issue in which battles for political legitimacy are to be won (or lost).

Such pressures and shifts in both jurisdictions are vital in understanding why particular narratives came to dominate the debate. The voices that mattered were intimately connected with key contested voting populations, predominantly lying broadly in the centre-to-right hand side of the political spectrum. The combination and interweaving of problem projections and political interests meant that alternative counter-constructions and arguments were marginalised, which granted legitimacy in employing non-adaptive policy 'alternatives' in responding to cannabis.

This alludes to a further point: that the specific make-up of ruling administrations is of central importance in understanding the recent changes. The combination of parties in the Rutte I cabinet (VVD; CDA; PVV) and the New Labour party under the leadership of Gordon Brown facilitated the flourishing of particular values regarding cannabis policy and the preference for tough authoritative responses. Policy alternatives which would question the commitment of these political parties to a tough law and order position were maligned, with politicians not willing to 'put their head above the parapet' [EW-P1] in fear of appearing irresponsible and soft.

Moreover, alongside internal struggles for establishing political legitimacy on issues of drugs and criminality, international pressures have remained a constant presence in the framing of debates. Whilst at the EU level there has arguably been a shift towards the embracing of a harm reduction approach in drugs policy, the Netherlands still remains an outlier in the sense of providing ready access to its coffeeshops, which in turn has generated continued complaints from her neighbours regarding nuisance and exportation.

The result of these internal and external pressures has been that responding to cannabis-related issues in the Netherlands has seemingly witnessed the growth of a criminal justice-oriented lens since the mid-1990s. Whilst the voice of health remains a dominant force, criminal justice institutions are increasingly seen to be a logical device to re-establish social order and morally demarcate cannabis use as an undesirable social activity. Whilst in England & Wales (at a national level) the Home Office has always had a firm and dominating position in drugs policy, developments in the Netherlands suggest that the Ministry of Security and Justice has an increasing voice in directing policy, with Minister Opstelten from the VVD a domineering force who has been at the forefront of contemporary debates and policy movements.

The desire for state paternalism is particularly enhanced given the shared concerns over youth consumption. In some regards, liberal notions of being the author of one's own body are present in discussions over adult cannabis use (so long as the use does not harm others), but in relation to young people, to be seen as though the state is not taking action

risks the view that it is not fulfilling a primary duty of care towards its young citizens. So despite Dutch drugs policy still officially being the primary remit of the Ministry of Health, Welfare and Sport, the Ministry of Security and Justice has become more influential with an intrinsically more punitive perspective on how best to deal with emergent problems.

Thus, the culmination of problems provided the 'fertile ground' in which the government could react. Indeed, within a deeply politicised environment, there was immense pressure for politicians to at least be seen to be taking action against unwanted threats, appearing to confirm Garland's (2001) notions of denial and subsequent acting out. In both settings, cannabis policy became a particular object through which to demonstrate governmental sovereignty in the provision of security and to translate dominant moral positions of the day into preferred policy responses.

7.2.3 Technical Parameters of Policy

Alongside convergence in the desirability of selecting more repressive measures to project a sense of authority in dealing with perceived problems, another point of convergence in the selection of policy measures can be found in the technical feasibility of policy. The overarching global framework of illicit drugs control remains a fundamental relation of control which complements other points of convergence. Whilst cracks are starting to appear in the global prohibition of cannabis, as exemplified by recent developments in Uruguay and the USA, the UN Conventions still provide a framework which neither England & Wales nor the Netherlands are willing to currently transgress.

This is more pertinent in the case of the Netherlands where there is more appetite for alternatives to prohibition, but the existence of such homogenous mechanisms of control are important factors across both jurisdictions. Moreover, there were also other aspects regarding technical feasibility which shepherded the policy movements into a more repressive shape. In England & Wales, the consideration of policy alternatives took place within existing parameters enshrined in the Misuse of Drugs Act. When asked to review the classification issue, the ACMD was tasked only with looking at what class cannabis should be, and so alternatives which went beyond the model of prohibition were automatically filtered out. In the Netherlands, the seriously considered policy alternatives also existed within current parameters, with international frameworks frequently cited as a force blocking more liberalising options. But additionally, European and domestic legislation also forced the introduction of *national* measures (regarding the residency and closed club criteria), which again facilitated an overall stricter shift in cannabis policy.

Growing homogenisation in the governance of drugs policy is a feature which has steadily taken shape over the course of the 20th century, and demonstrates how states have attempted to deal with threats emanating from patterns of globalisation through the relinquishing of state sovereignty to supranational agreements and organisations. But such patterns are clearly not entirely homogenous, given the clear divergence in the Netherlands' tolerance of coffeeshops, thus demonstrating the contingent and enduring power of the nation state in crafting policy responses. But since the Dutch departed from the global and European norm in the 1970s, the pressure to come back in line with surrounding countries has been a constant presence in policy debates. Again, this is particularly relevant given the geography of the Netherlands and the impact of easier cross-border movements. The recent changes to cannabis policy attest to such pressures, by trying to close the market off from non-Dutch residents, which in turn would relieve accusations that the coffeeshops supply cannabis to neighbouring countries.

The result of these tendencies, in terms of political feasibility, values and constraining frameworks, was a reproduction of existing structures which attempted to further repress individual liberties under the guise of providing security. Although in the Dutch case some of the new measures were based upon a pragmatic rationale, a process of constructing problems and solutions through a control perspective, and conditioned by internal and external constraining pressures, restricted feasible options within existing templates.

7.3 Divergence in Cannabis Control

The picture presented above seems to suggest a rather smooth and flat adoption of punitive non-adaptive strategies in responding to issues of cannabis across both national jurisdictions. But whilst there are degrees of similarity in the problems experienced and the political environment in which policy responses are formulated, there are still a host of factors and mechanisms which facilitate ambivalence between policy talk and decisions, as well as demarcating England & Wales and the Netherlands in terms of policy outcomes. The nature of policy responses differs markedly *across* and *within* these jurisdictions, which can be explained with reference to the continued importance of national and local political institutions and cultures. In a very obvious way, we can see this by virtue of the fact that coffeeshops are still in existence, representing a vastly different approach to low-level cannabis offences. But in a more precise way, recent changes to policy demonstrate the structural and cultural abilities of the Dutch to reproduce an uneasy 'middle-ground' within a global framework of prohibition which more readily 'mellows out' overly punitive changes.

7.3.1 Divergence between Policy Talk and Decisions

Whilst the substantive policy changes (i.e. decisions) do represent a more repressive shift to varying degrees (in the sense of restriction of liberties) which shouldn't be understated, they still retained the core of pre-existing approaches. This suggests that the symbolic power of policy has become just as important as substantive responses. This attests to Garland's notion that crime policy has become more expressive and emotional, with the findings suggesting that the language of cannabis policy change by Opstelten and Brown was deeply assertive, protective and expressive. For instance, Brown's suggestion that skunk was 'lethal' (i.e. killing people) (BBC 2008), and Opstelten's sustained sound-bites of the need to 'attack' and 'combat' criminality are indicative of how such politicians played into the media and politicised discourse of the situation. Such expressions are perhaps not so significant in influencing broader cultural trends given low levels of trust in mainstream politicians, but they can be considered important projections aimed at those who are engaged in politics and voting (i.e. older individuals who are more likely to have children, and thus are arguably more susceptible to cannabis-related fears).

In both countries, there appears to be convergence in the nature of policy talk which represented symbolic attempts to demonstrate the state's authority (and the credentials of particular individuals such as Brown and Opstelten) in protecting young people, and yet the actual policy decisions demonstrate actual and potential (in the sense of policy action) opportunities for divergence from non-adaptive strategies as they had very little effect on the desired populations.

In England & Wales, the reclassification made *no* changes to how young people would be policed – as it further cemented a system of out-of-court disposals for dealing with adult cannabis users – and the notion of reclassifying for 'policing priorities' is a bit of a misnomer given police forces already have operational discretion in how resources are directed. In the Netherlands the initial three measures were reduced to one which was then given flexibility in its application at the local level: the school's distance criteria aimed to add a further 100m to most existing practices, and coffeeshops already largely abide by the well-ingrained criteria not to allow admission to under-18 year olds (see de Bruin et al. 2008). Moreover, whilst there were significant policy concerns over large-scale cultivation, the actual measures did little to effectively address these problems. Whilst the idea behind closing supply off from non-Dutch residents has a rational basis in reducing coffeeshop-

related nuisance, it ignores the national police's own estimations that between 48-97% of cannabis is exported (van der Giessen et al. 2014).

The policy talk of acting tough on organised crime and tackling large-scale cannabis cultivation therefore seems to be largely rhetorical, and where substantive efforts are made, these are again done within existing paradigms premised on the traditional belief that law enforcement is capable of countering the illicit drugs trade – a fallacy which appears largely inconsistent with the actual success (or failure) of the global 'war on drugs' to reduce illicit drugs markets.

Responses to cannabis are necessarily conditioned by a realisation that to be overly repressive would create serious administrative burdens, and as a result there is a pragmatic adjustment by control agencies working within available parameters. Thus, the construction of cannabis as a danger also lies in parallel with the implicit acceptance of cannabis use in contemporary society, which in Garland's (2001) terms, has created a 'policy predicament' in how to respond.

The sheer volume of cannabis users presents a set of administrative burdens in the application of repressive legislation. It is wholly unforeseeable that every one of the estimated 2 million past year users in England & Wales could be caught, processed and given a custodial sentence given the overcrowding problems with the current prison population of approximately 85,000. Similarly, the prospect of the Dutch relinquishing the coffeeshop system in favour of enforced criminalisation would create a whole host of additional burdens, not just on the courts and prison system, but also with police forces having to tackle increased dealing and possession offences.

Contemporary responses to cannabis have to take account of this predicament, and in some ways the policy decisions adapt to the situation by either managing risks and threats or through minimal practice changes. There appears to be an implicit acceptance of the inability of law enforcement agencies to eradicate the problem, but this occurs within a broader symbolic stamp that the national government is acting on the problem, thus evidencing a simultaneous degree of denial and acting out (Garland 2001). It would appear that such an ambivalent relation allows different spheres to operate to different audiences and mandates; politicians can talk tough, and practitioners can pragmatically adjust, which according to Brunsson (1993), amounts to a form of 'hypocrisy'⁸⁹.

⁸⁹ As Brunsson (1993:502) suggests, 'hypocrisy' is '...a way of handling the problem of the difference between what can be said and what can be done. Hypocrisy means that what can and should be said is said, not only by ordinary people but also by important people such as executives and actors, but without the talk leading to the corresponding action. What can be said is said, what can be done is done.'

7.3.2 Divergence in the Extent of Contestation and Resistance

Not only are there shared trends of divergence between the policy talk and decisions across both countries, but the actual policy outcomes represent vastly differentiated and uneven responses, both cross-nationally, and between national and local spheres.

A major point of divergence exhibited in the recent changes was the degree of *influential* ‘counter-doxic’ (Garland 2004:167) voices in conceptualising and responding to policy problems. Whilst it would be unfair to suggest that there was little or no reaction from opponents of the reclassification in England & Wales⁹⁰, the impact of such protests was largely in vain and did not impact in any meaningful way on the policy process. However, in the Netherlands a sustained resistance against the planned measures from various sectors of society ultimately contributed to a revisiting of the issue and the relaxing of the initial rules.

In this way, the measures initiated under the Rutte I government were conceptualised in themselves as a policy problem which threatened the sacred separation of markets philosophy. The continued support for the coffeeshop system appears to indicate that the disappearance of ‘platonic guardians’ and the shift to a punitive public has not been fully realised, or is certainly not as extreme, in the Netherlands than it is in England & Wales.

An important element which allowed criticism to flourish and take hold can be found in the nature of the policy process. In England & Wales, the process was a relatively short-lived affair. The ACMD were asked to review cannabis classification in mid-2007, the decision to reclassify was announced in May 2008, and was swiftly introduced in January 2009 with fairly minimal changes to existing practices.

However, in the Netherlands the process was conducted over a much longer time span. The plans to alter the *gedoogbeleid* were announced under the Balkenende IV government in 2009 which initiated the van der Donk Commission. The original measures were announced in the 2011 coalition agreement which included the trial of the residency and closed club measures in the south, with the further school’s distance criteria not scheduled to start until 2014. The trialling of the new measures, as opposed to mandatory national implementation, facilitated critique and debate to foster over the advantages, disadvantages and effects of the measures. As was suggested in Chapter 6, the trial of these measures in the southern provinces caused a huge backlash against the government who

⁹⁰ Especially given the mass resignation of ACMD members following Professor David Nutt’s controversial sacking, with tensions between the advisory body and government increasing after the government rejected advice over the cannabis classification issue. Between late 2009 and early 2010, 8 members of the ACMD resigned in protest over ministerial influence (see Laurence 2010).

were seen to be overstepping the mark by intruding into people's lives through forcing people to register for an illicit activity. Moreover, it was felt that they had created more troublesome issues than mere nuisance by encouraging non-tolerated sources to flourish in catering both for Dutch users resistant to registering and non-Dutch residents who could no longer enter coffeeshops.

The resistance generated in the public sphere against the new measures was also matched by counter-voices of municipal leaders (predominantly of the *grote vier*) and disgruntled civil servants and academics (predominantly from health) that saw the dismantling of the market separation policy. Such patterns further attest to the suggestion earlier that cannabis policy is highly polarised in the Netherlands, as it is in England & Wales, but support for progressive policies have a much stronger legitimate position whereby there is less fear to speak out against measures which are seen as counterproductive and repress individual liberties.

An underlying support for coffeeshops has also been conditioned by the fact that they have been in existence for nearly 40 years and are largely seen to have been fulfilling their purpose of separating the markets between 'soft' and 'hard' drugs. Moreover, whilst there have been overall increases in consumption over this period, these have not been any different to the trends experienced in most other advanced Western countries and rates of use still remain fairly average (MacCoun and Reuter 1997; 2001; Room et al. 2008; EMCDDA 2014). Thus, the fear of the unknown (or options beyond blanket prohibition) is not present in the Netherlands having experimented with an alternative system for selling and consumption for a considerable period. Within this, the role of the health-driven aspect of the policy is again a strong underpinning mechanism which provides strong support for the coffeeshops and provides a counter-voice against policy options which threaten the separation of markets philosophy.

Such undertones were very much present in the recommendations of the expert commissions of van der Donk and Garretsen, and the use of expert advice is another point of divergence between England & Wales and the Netherlands. Two points are pertinent here: the remit of expert committees differed vastly in scope; and the taking-up of key recommendations also contrasted. In England & Wales, the ACMD was primed with providing advice within the prohibitive framework of the Misuse of Drugs Act, to determine which classification (of illegality) cannabis should be placed; whilst in the Netherlands, the van der Donk Commission had a much broader remit and examined all policy options from complete prohibition to full legalisation, and the Garretsen Commission considered the whole drug scheduling system. Moreover, in England & Wales, the central recommendation *not* to

reclassify was rejected, whilst most of the key recommendations from the Dutch commissions were adopted (residency; closed club; THC division).

Again, there are important reasons why the Dutch expertise was more influential than the ACMD in policy decisions which shall be discussed in more depth in due course. But the breadth of policy alternatives presented and the utilisation of such recommendations in the Netherlands demonstrates that the direction of policy does not necessarily have to be punitive or repressive in nature. There is still a key role of expert actors in the cannabis policy process, thus refuting claims that policy is purely driven by populist punitive demands for tougher courses of action. Indeed, the recommendations of Baan and Hulsman from the late 1960s that Dutch drugs policy should allow for local experiments continues. The flexibility to modify policy over a longer period of time based upon such trials was evident in the modifications to the initial changes made under Rutte II. The new measures were found to be producing serious adverse side effects to a system still rooted in notions which seek to protect cannabis users from criminalisation and contact with other illicit drugs markets.

Such values do not only lie in forces around the political system, but are also heavily embodied within a multitude of parties within it. Whilst a polarisation of views do exist and there is support for alternatives to current responses in England & Wales, these are relatively minor at the political level between the two major parties and had little influence in the direction of policy concerning the reclassification to Class B⁹¹. However, in the Netherlands there still exists a more balanced support for political parties which advocate a range of policy alternatives in cannabis policy. So whilst parties lying on the centre-to-right-hand side of the political spectrum (such as CDA and VVD) have shifted and become more supportive of punitive responses regarding cannabis, there are a multitude of parties on the centre-to-left-hand side which have become more aligned with responses which would further regulate the coffeshop system, particularly regarding the back-door of cultivation and supply (such as PvdA; D'66; GroenLinks; SP).

Contrasting political institutions is a fundamental component which will be discussed more below, but here it suffices to make the point that there is an array of political parties holding various values in the Netherlands which does not necessarily constrain policy options within the status quo. So whilst recourses to criminal justice rationalities of control may occur within certain political parties which were in power during Rutte I, this does not necessarily or automatically dominate the political landscape in other ruling administrations as it does in England & Wales which have traditionally been largely restricted to two dominant parties.

⁹¹ Indeed, if we look at how the Misuse of Drugs Act Amendment Order passed through the House of Commons, 76.3% of the House supported the motion, with only a joint total of 6 MPs rebelling from the Conservative and Labour parties (see House of Commons 2008b).

Thus, the slowly evolving and incremental nature of Dutch policy-making more readily allowed a balancing-out of contested measures, as contrasted with the expeditious policy reversal in England & Wales. Relating such developments back to the culture of control thesis, and it would seem then that whilst the Netherlands has experienced similar pressures and strains associated with late-modernity, this has not automatically determined the conceptualisation of policy problems purely in terms of threats to state sovereignty in reaction to populist punitive sentiments. Rather, there has been a simultaneous rejection of overzealous state authoritarianism which problematises responses which are seen to impose restrictions on civil liberties and pragmatic strategies of cannabis control. Such tendencies not only emanate from contestations from civil society, but there is also continuing evidence of corporatist elite negotiations. These attempt to find balance and consensus across a variety of groups which aims to deal with arising problems through pragmatic strategies within available constraining frameworks.

7.3.3 The Role of Political Institutions and Relations of Power in the Governance of Cannabis Policy

Whilst the initial measures under Rutte I were made possible due to a change of administration which firmly placed a right-leaning political coalition in the cabinet, a second change of administration brought in more balance with the return of PvdA which, together with a broader contestation from civil society and counter policy networks, argued for greater leniency with the new measures. The change in government was a key catalyst in some regards, but the importance lies in the systems and histories of political organisation.

This highlights a major point of difference between England & Wales and the Netherlands. In the Netherlands there is a much larger number of political parties represented in the Tweede Kamer and who seek to represent a wider spread of voters than in England & Wales. Under a system of proportional representation, this ensures that a mixture of views are often represented in cabinets on all issues. Indeed, this is seen as an important component which traditionally characterised Dutch political culture, that in the polder model there should be an inclusive process which does not let one side dominate the political sphere (Lijphart 1968). Such cultural tendencies are still evident, not only in spirit, but also in structural forms of political organisation.

Given that the debate on cannabis policy is more open (which is partly due to its historical tolerance and political normalisation), political debates are much less static and less constrained than in England & Wales where the national political system has traditionally

been dominated by two parties who have no willingness to look beyond the status quo⁹². Such pressures are also mediated by existing within an adversarial style of politics, where the quintessential nature of being in opposition is to critically attack the government on its policies. Where two large parties dominate the political landscape, the pressure to be seen to be doing something is arguably more so than in a country where power is constantly diffused amongst several parties. In the former case, the media plays a stronger position in influencing debates. Research and expertise, however, is more likely to be utilised where it is seen to progress ideological and political agendas but can also be more readily discarded. This of course does happen in the Netherlands also, and similar patterns seem to be suggesting slight shifts towards a 'political-media complex' (Swanson 1992), with incident-driven events focusing policy concerns and swift short 'sound-bites' becoming commonplace in the rhetoric of Minister Opstelten for example. However, the shift does not appear to be as extreme as felt in England & Wales, and expertise still plays a vital role.

The suggestion here is that the constitutional system itself mediates such forces. Having to find consensus amongst differing parties is a required facet of a ruling coalition government, and so whilst politicisation and populism may shape the noise around governments, there is still a very pragmatic element involved in generating agreement. It is worth returning to one particular quote by a politician which highlights this point:

'One thing, that is campaigning, and secondly, that is also negotiating.' (NL-P2, VVD Politician, Utrecht)

Written in to this cultural code of negotiation and consensus-building is the idea of developing policy over time. So whilst the formation of Rutte I signalled a right-leaning cabinet, the origins of the policy measures started in the Balkenende IV cabinet which also included PvdA. The same party then also returned in Rutte II. So whilst there has been voter volatility and mobility in recent decades, different parties come and go from national government. To completely reverse policy is considered counterproductive, ensuring a more incremental style of policy-making rather than the policy reversals that often occur in England & Wales between the Conservatives and Labour (and even within the same party when considering the 2009 reclassification).

In this context, of needing to find agreement over time and across diverse political parties in a highly polarised policy area, the role of expert commissions appears to play a

⁹² Interestingly, with the third largest party, the Liberal Democrats, now in a coalition government from 2010, there have been calls by Liberal Democrat Ministers for alternative approaches to cannabis (see The Independent, 2011; The Guardian 2014; Wales Online 2013). This supports the overall finding that broader political representation in government allows for marginalised voices on drugs policy to be vocalised, and demonstrates the *potential* for static closed paradigms of thought to be remoulded.

much stronger role than in England & Wales. Where decisions are difficult to make, commissions provide legitimacy in decision-making through pragmatic advice which allows parties to move from their original starting points, thus deflecting potential influences of populist punitivism. In England & Wales, where usually one party holds a parliamentary majority, the need to give consideration and room to other political perspectives is limited (or fairly non-existent), which thus facilitates the influence of populism into the political sphere. This is further accentuated through the role of key actors, with the Prime Minister in England & Wales having a much more pivotal role.

In addition to such structural and cultural mechanisms which demonstrate the potential to resist the punitive turn, another major point of difference lies in the responsibility and power to govern in cannabis policy which again demonstrates divergence in how a purported culture of control unfolds across the two countries. In the Netherlands, there is a diffusion of responsibility in the governance of cannabis policy, both across and within the state.

This latter element of municipal involvement will be discussed in more depth in the final section, but for now we shall retain our attention on the national level. The role and influence of health has already been mentioned several times in this chapter as an important counter-voice, and this cannot be understated. Through seeing cannabis use primarily as a health issue, and not a criminal justice problem, the tolerance policy removes the police from interference in coffeeshop issues in the first instance. Thus, the coffeeshops are in some ways protected from a pure criminal justice lens by the nature of organisational relations and responsibilities. The effect of this is that it provides actors across different agencies and ministries a powerful voice in raising objections to policies which are either counterproductive or administratively burdensome (as with the impending THC division).

The spread of power and responsibility contrasts somewhat with England & Wales where control of cannabis and other illicit drugs is heavily centralised within the Home Office. This is not to ignore the fact that other departments are involved in the wider drugs strategy, but that policy is driven through a criminal justice lens in a notoriously stringent state department which holds most of the power and is thus more amenable to reproducing and performing prevailing orthodoxies in a closed policy arena.

7.3.4 Cultures of Tolerance? 'Convergent-Divergence' in the Subnational Sphere

Thus far, one of the central arguments that supports divergence between England & Wales and the Netherlands has been premised on differences in political institutions and culture

which more readily allow for the Netherlands to contest repressive responses to cannabis policy. This assertion is further bolstered when comparing how responses developed at the subnational sphere where the power to govern in the Netherlands provides further mechanisms of resistance and reworking of policy. However, the overall picture suggests patterns of 'convergent-divergence' (Levi-Faur and Jordana 2005) in that there is a broad similarity of both jurisdictions demonstrating degrees of divergence from the more punitive responses initiated at a national level. This again contests the notion that policy responses unfold evenly across different spaces, with the subnational level being a key site of resistance.

Just as there was 'hypocrisy', in Brunsson's (1993) terms, between the policy talk and decisions, it is also possible to speak of the same between national and subnational levels of governance in how policy is created and translated in both countries. In some regards, this is a necessary component of policy-making in any society; the national level exists in an abstract reality, removed from the everyday realities of policy problems, and is required to formulate broad responses across diverse settings. The local level however is firmly rooted in concrete situations and encounters a set of issues in how to actually implement and react to situations that arise. The result of this is that pragmatism plays a much stronger role, supplanting the symbolic role of policy which is much more prevalent at the national level.

However, how local authorities address problems is dependent on a number of interlinking factors both structurally and culturally which varies over time and space. The ability to govern is a key aspect in this regard. In the Netherlands, structural empowerment of the local grants significant powers to municipalities and mayors. Despite trends which indicate some degree of centralisation (e.g. nationalisation and restructuring of the police), there has also been patterns of decentralisation which has granted local municipalities, and mayors, more powers in how social problems are governed. Cannabis policy evidences such ambivalent developments which has made governing arrangements more complicated and arguably has reduced the independence and separation of powers.

However, compared to England & Wales, local municipalities in the Netherlands have been empowered as much as they have been responsibilised. Thus, power is not only conferred in the Dutch setting but also transferred thereby granting more potential to resist punitive pressures found at a central level of policy-making.

This marks a significant difference to England & Wales, where although local authorities do have degrees of autonomy, especially when considering the devolved powers of health in Welsh responses to substance misuse and the operational independence of the police, it is a *distribution* of responsibility rather than *power* to govern. In the Welsh setting,

decisions are able to be shaped in a more differentiated way from the broader UK drugs strategy, but such decisions take place within a broader structure and paradigm of prohibition, with little movement beyond this framework possible. Moreover, the findings suggest that there is little desire to 'rock the boat' in this area given the early stages of the Welsh Government project which is seeking to prove to Westminster that it is a legitimate enterprise. In this context, drugs policy falls prey to the same fears and political pressures as it does in the wider UK context, with Welsh politicians unable and unwilling to look beyond pre-scribed policy alternatives.

These relations of governance are also interlinked with socio-cultural facets which help shape policy responses. In both countries at the subnational level there are traditions of social democratic values which have remained fairly consistent over time. Such values have influenced how cannabis (and substance misuse) policy has evolved, with both seeking an approach which aims to reduce stigma and harm to marginalised groups whilst improving health outcomes. However, local empowerment in the Netherlands makes political representation more relevant, not only in how policy is translated from national to local spheres, but also in the role of the local in challenging national policy formation. This is not to suggest that this *necessarily* causes resistance to policy measures, but rather that powers located in particular geo-historical contexts present opportunities to rework policy in unique ways (Edwards and Hughes 2005).

The specific relationship between subnational authorities and central government during the period of policy change is of central importance in this regard. Most of the largest municipalities with most of the coffeeshops were led by PvdA mayors and municipal councils, and this component combined with the fact that PvdA became a national coalition partner created political pressure for Minister Opstelten to be more flexible with the new arrangements rather than imposing an order of enforcement. For example, the school's distance criteria which did not appear to originate out of any particular municipal concern, but more upon symbolism and ideology, was rescinded following pressure from the municipal level that it would lead to the closure of most coffeeshops; an effect which would be unwelcome in most urbanised municipalities who value the role of coffeeshops.

Such differences highlight disparities in political culture: subnational governance in the UK has been described as 'hypercentralised' in comparison to European norms (Loughlin 2001; House of Commons 2009), and there is a history of distrust that exists in the UK between central and local governments (Chandler 2001). Such factors are especially prevalent in the area of criminal justice where the Home Office remains a bastion of centralised control. Whilst efforts to decentralise and defer responsibilities were made during

New Labour's tenure, most notably in the shape of statutory local partnerships, they still revolved around heavily centralised targets (Hughes 2007). Such targets were indeed present in the policing of minor cannabis offences which saw a perverse incentive structure emerge around sanction detections for performance management targets during the 2000s. Interestingly, since the removal of such targets it has become more evident that pragmatic strategies of cannabis control (at least for low-level offences) have more readily flourished.

However, in the Netherlands there is a rather different approach to local governance which can be traced back to the historical formation of the country (from federal states operating with a 'regent mentality' and the 'House of Thorbecke' framework in which there are relatively independent layers of national, provincial and municipal government), and from more recent times of being wary of overzealous state authoritarianism following Nazi occupation.

Here, another point is relevant, that larger municipalities have more influence than others; so whilst policy responses are contingently related to political representation at the local level, the ability to rework policy is also related to the size and geo-political power of municipal authorities. The local case site in question, Utrecht, is both a major city (and a member of the *grote vier*) and has dominant left-wing political representation. It is these facets which granted more influence in shaping the debates on the new coffeeshop measures and continues to serve as a springboard for propelling concerns and alternative responses into the political sphere (i.e. with regulated cultivation).

Given the prominent role of some mayors in the larger cities, who often have political histories at the national level, this places more bargaining power in their hands. This is further bolstered through a detachment of important key players at the local level from electoral anxieties and pressures. Executive power rests with the College of Mayor and Aldermen which consists of appointed individuals who are separate from the directly elected municipal council.

Whilst the analysis of England & Wales indicated that the framing of substance misuse in Wales could be identified as a factor in allowing for the diversion of police resources away from individual cannabis users and subverting overly punitive policy responses, it is not clear whether such patterns exist in other subnational spheres. The waters become muddied in England & Wales given the apparent lack of governance capabilities in this area, whereas in the Netherlands there can be greater certainty that political representation at the subnational level is an important mechanism. When triggered (in this case from counterproductive national policy initiation), the authority and power

granted to the municipal level can react and rework policy in a more meaningful way than in England & Wales, where in the latter case it was somewhat of a submissive observer.

7.4 Summary

Overall, it has been argued that there are a number of features in both England & Wales and the Netherlands that have allowed for degrees of convergence towards reacting towards risks and threats posed by cannabis which have resulted in an overall stricter position towards its control. The culture of control thesis is useful in illuminating and linking these developments with broader 'master patterns' which on the whole, seem to indicate both denial and acting out, in the sense of ruling administrations projecting symbolic images of being tough on cannabis, and adaptation, which is more readily found in the policy decisions and at the subnational levels of governance. However, how such organising tendencies are realised and performed is not a ubiquitous and homogenous process, with a set of factors and mechanisms at national and subnational levels which have been found to support, resist and rework policy in uneven ways. The result of these movements has been that the Netherlands has been able to mitigate punitive forces in a more meaningful way than in England & Wales. This then takes us on to the concluding chapter of the thesis, to critically explore the implications of these findings, to reflect on the research process, and to offer future directions for research programmes.

Chapter VIII

Conclusions

8.1 Introduction

If we return to the original aim of the research, the purpose was to examine how a culture of control unfolds across different national and local spheres in two advanced Western European jurisdictions through an examination of convergence and divergence in cannabis policy in England & Wales and the Netherlands. From the outset, it was argued that recent changes *prima facie* indicated a degree of convergence around the employment of non-adaptive strategies in cannabis control. However, it was also reasoned that the development and unfolding of policy has the potential to take a number of forms across and within different jurisdictions. As such, it would be reasonable to expect that there had been some degree of convergence *and* divergence existing both *inter*-nationally and *intra*-nationally. From these propositions, four research questions were identified which underpinned the investigation:

1. How did the policy responses come into existence?
2. To what extent is there *intra*-national convergence/divergence between national and subnational levels of governance?
3. To what extent is there *inter*-national convergence/divergence in the responses to cannabis?
4. What factors and mechanisms conditioned how the policy responses unfolded?

The final chapter has a three-fold purpose: first, to recapitulate the main findings in relation to these core research questions and the broader aim of the research; second, to reflect upon the methodological approach underpinning the project and suggest future programmes of research; and finally, to consider the role and value of what it means to be 'critical' in social research, and the implications of this for policy-making in crime control.

8.2 Culture(s) of Cannabis Control

As much of the comparative work has been discussed in depth in the preceding three chapters, this section takes a briefer overview to reflect upon the culture of control thesis in

explaining changes in cannabis policy across and within England & Wales and the Netherlands.

So what do the findings of the research suggest about globalising sociological theories of crime control? David Garland was heavily criticised for underplaying the influence of different national and local political institutions and cultures, and for failing to recognise the fundamental messiness, unpredictability and contestation involved in the policy-making process (Young 2002; Tonry 2009; Edwards and Hughes 2005; Matthews 2002). These critiques are not just pertinent to the work of Garland, but also especially to those who have overly concentrated on the punitive turn, producing ‘criminologies of catastrophe’, without considering the ‘...non-punitive modes of managing crime that these deep transformations make possible’ (Garland 2004:170). The challenge put forth was to examine how different societies have ‘...adapted and reacted to the new risks, insecurities and opportunities inherent in the social organisation of everyday life under late modern conditions’ (Garland 2004:179-180).

In both jurisdictions, the past 40 years or so have witnessed vast changes in the social and political landscape, with challenges to the sovereignty of the nation state from above, beyond, below and within. Responses to cannabis are the result of the exercise of power by social actors operating within the structural and cultural relations in which they inhabit (Foucault 1980; Giddens 1984). But whilst structural relations are extremely significant, we must be wary of how individuals navigate and make sense of their habitus in the performance of particular roles (Matthews 2014; Goffman 1969; Bourdieu 1990).

As the findings of this research suggest, the culture of control is not a uniformly experienced phenomenon, but is constantly performed and reproduced, diversifying and mutating across varying structure-agency relations. The danger of reading off particular aspects of ‘policy’ misses the fine-grained complexities of the motivations, pressures, negotiations and power manoeuvres involved in agenda-setting, policy development and it’s unfolding across different geo-political spaces.

An in-depth examination of the policy process helped illuminate such dynamics apparent in cannabis policy. This was made possible through the adoption of the Multiple Streams framework which was used to explain and compare the policy process through the coming together of the three relatively independent problem, policy and political streams in suitable windows of opportunity (Kingdon 1995).

Taking into consideration both the empirical ‘snapshots’ of two specific policy movements as well as the broader trajectories of cannabis control across both jurisdictions, the utilisation of the culture of control has been shown to be fruitful. Arguably, the

Netherlands has in some ways shifted more ground than England & Wales towards a more conflictual and ambivalent set of control strategies. Yet, the residues of modern institutions, practices and cultures evident in each national and subnational setting bear importance for how particular responses are carved. Such factors help explain how non-adaptive and adaptive strategies take the particular shape they do across and within different levels of governance.

Across both jurisdictions at both national and subnational levels there are clear points of convergence in the broad picture of cannabis policy which fit into Garland's narrative well. Cannabis has undergone a series of transformations which have been problematised in terms of criminal justice, public disorder, health and morality. But how such societies have attempted to understand such risks has also evolved; more professionalised and skilled law enforcement bodies, an ever-present need to diagnose social problems as medical issues, and the re-introduction of quasi-religious moral arguments have all shaped what counts as a problem and provides ready-made solutions for its remedy.

How problems were constructed also linked in to the political environment of policy-making at the national level, whereby both jurisdictions exhibit a highly politicised policy arena in which there are pressures for politicians to be seen to be taking clear, authoritative decisions. For similar, but differently experienced, reasons, appealing to populist 'law and order' demands has become more vocal in both countries and this affected why particular representations of cannabis were taken up and placed on the policy agenda.

In both cases, the role of non-state actors advocating for more liberal reforms, such as Release, Transform, and the TNI, was fairly negligible. This is not to say that such narratives were absent, but that the stories that were listened to and re-performed accorded with a set of dominant values at the time which favoured alternative, and more punitive approaches. Additionally, this is not to discount their role either in the past or in the future. As was the case in England & Wales, the Runciman Report gained significant traction and was used to partially justify the 2004 reclassification. However, the key is that particular narratives and evidence have to be provided at the right time to the right set of political actors within suitable windows of opportunity.

Moreover, the responses were conditioned by the technical parameters of international conventions which have largely restricted options within the dominant structure of prohibition, with these countries currently unwilling to deviate from the international norm.

But despite these points of convergence, the existence of divergence across and within nation states is perhaps more intriguing. Differences exist due to a range of structural

and cultural factors and mechanisms which seem to either facilitate or off-set overly punitive measures to varying degrees. Taken together, the identification of all these factors and mechanisms which have shaped the cannabis policy process is a substantive contribution towards original knowledge in the field of study.

To reiterate these for clarity, this predominantly refers to the ‘structured ambivalence’ (Garland 2001) that exists between policy talk and decisions at national and subnational levels; the ownership of the problem; the (dis)empowerment of the local and political representation at this level; political and constitutional culture which provides a more inclusive/exclusive and incremental/reactive policy environment; the role of research, expertise and the mass media; and relatedly, socio-historical values concerning cannabis and coffeeshops which produce varying degrees of policy support and opposition. To return to a telling Dutch proverb which aptly summarises the findings, it would seem that ‘the soup is never eaten as hot as it is served’; but some soup is able to be cooled more easily than others.

As this research has demonstrated, such ‘empirical particulars’ are necessary for producing a more nuanced account of the way in which different national and subnational policy spheres react to many of the same fundamental structural shifts associated with late-modernity. The development of punitive responses is not something objectively determined, but is the result of particular interests and situated decisions within broader structural constraints. However, the illumination of divergence from such responses, and the identification of conditions which support alternative modalities of control, opens up possibilities for progressive change.

Indeed, taking a broader perspective on the specific issue of cannabis policy, there is increasing evidence of policy liberalisation across the globe, with a raft of alternative approaches to prohibition developing at local and national levels (TNI 2014). At the time of writing, four U.S states have fully legalised the sale of non-medical cannabis with more set to follow and Uruguay has become the first country to legalise the cannabis market (Room 2014; Pardo 2014); a number of jurisdictions across Europe have adopted modes of depenalisation and informal regulation through cannabis social clubs (Hughes and Stevens 2010; Decorte 2014; Christner 2013; see also encod.org); and many other jurisdictions across the world are considering options for liberalising reform (BBC 2013; Karam 2013; Tegel 2013).

Even within both the Netherlands and England & Wales, pressure appears to be mounting, with local municipalities lobbying for back-door regulation and the commissioning of a report into cultivation regimes in the Netherlands (NRC 2013; Kilmer et al. 2013) and a raft of high-profile reports both inside and outside of government presenting a convincing

case for reform in the UK (Global Commission on Drug Policy 2011; All-Party Parliamentary Group for Drug Policy Reform 2013; UKDPC 2012; Home Affairs Committee 2012).

What such changes signify with regards to debates about 'control cultures' is not yet clear. Perhaps, as van Swaaningen (2013) points to in relation to the decreasing use of imprisonment in the Netherlands, such developments support notions of 'reversing the punitive turn'. Certainly, reducing the burden on the criminal justice system has been a key argument of advocates for reform (Caulkins et al. 2012; see also Proposition 47 in California), and set within the global economic crisis, the need to reduce costs through austerity programmes has been the predominant response by affected states. Thus, such developments could be seen as a form of 'adaptation' in Garland's terms, of a gradual acceptance that prohibitive models have fairly limited effects on rates of consumption with resources better spent elsewhere (MacCoun and Reuter 2001).

There is, however, a further element set within the context of austerity which appears to be a strong argument for reform: that legalisation of cannabis would generate significant revenues. Perhaps unsurprisingly given the neo-liberal climate, this argument has gained most traction in the United States (Caulkins 2014), and seemingly affirms that previously counter-capitalist symbols have been reinvented and amalgamated into the neo-liberal capitalist machinery, with an economic reasoning supplanting previous moral positions (Sandel 2010). Again, rather than countering Garland's thesis, this seems to further suggest its applicability in accounting for a gradual global 'adaptive turn' and supports the findings of this thesis as a significant aspect of these reforms appear to have been instigated beyond government with strong grass-roots movements⁹³.

However, other developments, most notably in the shape of cannabis social clubs which are taking hold across Europe, provide interesting examples which do not easily fit into Garland's overall thesis owing to their communitarian and non-profit facets which merit further empirical attention as to their broader theoretical significance.

8.3 Methodological Reflections

Having summarised the main findings of the research, it is now time to reflect upon the research process in terms of what it has offered and what it has not. The research is not in

⁹³ However, as a report by the Transnational Institute (2014) suggests, since the turn of the decade there has also been growing pressure at an international level to reform international frameworks. Indicative of this, is a UN General Assembly Special Session on drug policy planned for 2016, which has been spurred on by South American renunciations of a prohibitive 'war on drugs', and increasing forms of liberalisation found in the Western hemisphere.

itself isolated from the social environment in which it inhabits, and so the research does not claim to project an objective truth, but rather a 'second best' representation which remains open to adaptation and change on the basis of further developed knowledge.

A key question in evaluating and 'adapting' conceptual and theoretical frameworks is whether they succeeded in comprehensively capturing the social phenomenon under question (Layder 1998). Invariably in the complex 'open systems' of the social world there cannot be full certainty or possibility that such tools are capable of explaining everything under its gaze, which therefore leaves space open for competing accounts. For example, Garland's theory helps explain a lot of the developments in crime control, yet the counter-orthodox struggles and points of difference which are glossed over have been shown to be important in this research. They help demonstrate and explain how punitive policy 'mellows out' from national to subnational levels and between talk and decisions within distinct moments.

Thus, the research has adapted and built upon the theoretical framework of the culture of control through the identification of factors existing at national and subnational levels which mitigate the policy process as outlined above (for example, with local political representation coupled with powers to shape policy initiatives). Further work could then take forward these findings to test and corroborate how such factors impact upon the policy process in other areas of crime control and across different settings.

Moreover, the same can also be said for more 'middle-range' frameworks adopted in this research regarding the policy process and policy levels (Kingdon 1995; Pollitt 2001; Brunsson 1989) in that they inevitably construct a particular representation and leave some questions unanswered.

In terms of the main organising framework employed in the research, Kingdon's Multiple Streams model, this was a useful device to capture the dynamic relations between different social actors and events that form part of the policy process. Importantly, the model allowed for a variety of processes to be captured in comparative perspective, highlighting differences between the more incremental style evidenced in the changes to the *gedoogbeleid* in the Netherlands compared to the more reactive process which characterised the 2009 reclassification in England & Wales. Moreover, by taking into account the fluid and ever-changing possibilities of policy change, this allowed the model to consider broader social and structural influences and the choices of key individuals central to the developments. Additionally, through combining this with an appreciation and empirical focus on the policy levels of talk and decisions, this enabled the research to produce a nuanced and original

account not only of how the policy changes came into being, but also what they signified in substantive terms.

However, we must recognise that in utilising such analytical tools there is a need to be reflective over how the research managed to adapt the models and concepts and to suggest ways in which to refine and adjust such tools (Layder 1998). This is particularly relevant in using the Multiple Streams model in European comparative work as it was originally developed in relation to the US political system.

One way in which the research adapted and built upon this model relates to the concept of the national mood. On face value this seemed to indicate a homogenous societal feeling about an issue. However, the findings of this research indicated the prevalence of multiple 'moods' regarding the issue of concern. In this sense, it is more useful to think of how, and why, particular representations are taken up and projected as a dominant feeling. This also relates to the concept of a window of opportunity, which has been argued is not automatically opened in a logical and coherent way which accords with an objective notion of a problem; but rather that it can be forced open with issues used by influential actors and agencies to question rulers and strengthen positions of power. Thus, actors, groups, and networks seek to improve their standings and progress their belief systems and ideological agendas through projecting a collective national mood.

The research overtly took a broad adoption of the Multiple Streams model, but there needs to be greater attention paid to what particular concepts mean in different political settings. For example, organised political forces covers a vast array of individuals and groups which differs considerably across national jurisdictions. Whilst the concept was useful to convey the broad mobilisation of collective interests to advocate for policy change, questions remain over the 'organisation' of such forces and the constitution of such networks.

Moreover, there are aspects of the research which could have been done differently or require further attention. A clear example of this is with regards to policy levels which were mapped on to 'national' and 'subnational' levels of governance. This was not the easiest of tasks, especially concerning the partially devolved setting of Wales which could be conceptualised as a national state in its own right. Thus, in developing such a framework, further consideration needs to be paid to the operationalisation of concepts and frameworks across varying geo-political settings.

Furthermore, the decision to only empirically compare the two specific policy movements raises the potential critique that this does not adequately represent the breadth of responses that have developed over these two jurisdictions, which when taken into consideration, may serve to challenge or alter the conclusions of the thesis. This decision was

premised upon the belief that a clear and narrow focus would allow a more rigorous and in-depth exploration of the processes of policy-making. Whilst it was felt that this was achieved, it is acknowledged that a broader historical time frame and wider selection of policy changes for empirical analysis could have provided the basis for more generalisable and critical findings. The danger, then, is that the findings of this thesis pertain only to those policy movements under examination and all too readily accept the culture of control as a mode of explanation, albeit with the nuances and means of variegation which have been documented.

As was noted in Chapter 3, the history of cannabis control in both jurisdictions highlights points of convergence and divergence around a culture of control as a whole, with evidence that this policy domain does not always neatly follow the birds-eye perspective of Garland. However, placed within a historical context, it is still possible to see the relevance and applicability of the concept of 'structured ambivalence' in accounting for state responses, with a broad bifurcation between more pragmatic approaches towards users and more punitive strategies targeted towards cultivators and suppliers developing from the 1970s onwards. Certainly in the case of cultivation, such approaches have been strengthened further over the years, and it is only recently that alternatives to prohibition have made some progress in policy developments. Looking forward, further empirical research should seek to locate ongoing developments within historical patterns of cannabis control to further critique and test the validity of theoretical perspectives.

Moreover, a further acknowledged limitation of the thesis was the explicit decision to focus on the policy process at the policy levels of talk and decisions, omitting the important level of policy action. Again, this decision was based upon providing a rigorous focus on processes of policy *making* rather than the effects or outcomes of policy, which have received much attention within studies of drug policy (e.g. MacCoun and Reuter 1997; 2001; Reuter and Stevens 2007; Room et al. 2008). An implication of this narrowed focus, however, is that it again fails to capture a fuller representation of the policy changes under examination, with inferences drawn only from the levels of talk and decisions without considering how actors 'on the ground' perform (or resist) the policy changes. Moreover, it fails to account for non-state actors which are active in cannabis control, both in the sense of service provision and in accomplishing points of contestation and alternative modes of control. For example, the growth of the largely unknown UK cannabis social clubs provides an interesting example where informal regulation of cannabis activities may be undertaken and offers a different mode of control to that of official control measures.

Thus, at this level there are a whole host of possibilities which may further affirm or challenge the culture of control thesis. If one was to consider policy action through briefly

examining a snapshot of key national statistics on possession and cultivation offences, it would appear that patterns of official sanctions towards cannabis activities broadly accord with the overall arguments set out in the thesis. This is by no means a robust comparison but is used here simply to indicate apparent trends which should be explored in more depth.

In the Netherlands, statistics on cannabis offences are quite difficult to ascertain with no specific information given about types of drugs or specific types of drug offences, with only a distinction made between 'soft drugs' and 'hard drugs' (WODC 2014). However, in a special report drawing upon police data in 2012, 38% (4594) of soft drug cases referred to the possession of cannabis, with 47% (5651) referring to cannabis cultivation (Kruize and Gruter 2014). Other research has noted that the rates of arrest for cannabis possession are extremely low, due to the system of *gedoogbeleid*, with approximately 3 per 1000 of the past year cannabis-using population arrested. This compares to 20 per 1000 in the UK (Room et al. 2008). Thus, the numbers being imprisoned for possession offences in the Netherlands can be estimated to be extremely low, if any, with 'offenders' in possession of less than 30g not being prosecuted under the *gedoogbeleid* rules.

Thus it can be assumed that a greater number of cultivation/supply offences are brought to court and result in official sanctions. On the whole, soft drug cases constituted 50% (4833) of court sentences for Opium Act offences in 2013, of which 506 received a fine, 2489 received a community order, and 772 received a prison sentence (WODC 2014).

In England & Wales, there is greater accuracy regarding the numbers sanctioned and imprisoned. In 2012/13, there were 142,618 recorded offences for the possession of cannabis which constitute approximately 70% of all drug offences. Out of this number, just under half (49%) were dealt with by a cannabis warning, and a further 11% were given a Penalty Notice for Disorder by the police (Home Office 2013c). Whilst not directly comparable due to differences in years, data from the Ministry of Justice (2015) indicates that the number of adults sentenced for cannabis possession in 2012 was 24,574. Of those, only 1.7% received immediate custody, with most (52%) receiving a fine. Police statistics on other cannabis offences is not directly available with limited data available covering all illicit drugs. For the year 2012/13, there were 29,746 police recorded drug trafficking offences. Sentencing data shows that the number of individuals sentenced for cannabis cultivation in 2012 was 5173. Of those, 24% received a community sentence, 29% received a suspended sentence, and 21% received immediate custody.

Taken together, these statistics indicate both differences and points of similarity. First, there are large differences in the numbers and proportions of individuals getting through to the courts for possession as contrasted with cultivation offences. In England &

Wales, there is a much greater proportion of possession offences, which can be expected given the Dutch *gedogen* towards possession. However, on the whole, the numbers reaching this stage of the criminal justice system are relatively few compared to the total number who consume cannabis with most of those caught by the police being dealt with out-of-court, and those who are sentenced by the courts hardly ever receive a custodial sentence in either jurisdiction. For cultivation offences, there can be greater certainty that a larger proportion are processed by the police (and Public Prosecution) and brought before the courts. Longer-term trends in both jurisdictions show an increase over the past decade in the numbers brought into the criminal justice system (Ministry of Justice 2015; WODC 2014). Moreover, cultivation offences are dealt with more severely than possession offences, although it should be noted that non-custodial sentences constitute the most common sentencing outcome.

Reflecting on the potential significance of such a snapshot, it would seem that it *prima facie* corroborates how 'structured ambivalence' manifests itself, not only between policy rhetoric and substance, but also between different types of offences, whereby possession is dealt with more leniently than that of cultivation. However, key questions remain over trends over a longer period of time and how criminal justice responses are performed by practitioners across different subnational sites.

8.4 Future Research Directions

The reflections made above open up a range of potential research avenues requiring further empirical attention. First, there are tendencies to treat the somewhat disparate collection of states that comprise the United Kingdom as a single political entity. But as this research has demonstrated, divergence does exist between Westminster and Cardiff, and we can expect similar patterns in Edinburgh and Belfast regarding drugs control.

A striking feature of contemporary British society is the perceived dearth of democratic legitimacy ingrained in the 'Westminster political elite' and the desire for further decentralisation, devolution, and particularly in the case of Scotland, independence. As the configuration of power shifts then alternatives to current regimes may become more feasible. Thus, as Stenson and Edwards (2004:219) suggest, there is a '...need for further accounts of the uneven ways in which political rationalities and governmental technologies are configured in different localities by competing coalitions of actors'. For example, Goldson and Hughes (2010) have usefully demonstrated such 'intra-system' diversification in the area of youth justice.

Second, whilst the research was useful in demonstrating convergence and divergence through the use of a 'critical' case site in each jurisdiction, there are further questions about whether the tendencies found in each subnational site are representative across subnational sites as a whole. In other words, is the approach in Cardiff or Utrecht indicative of the Cardiff-'ness' or Utrecht-'ness', or is it a non-specific condition of the existence of current responses? Further research could seek to conduct a comparison of multiple subnational case sites to further our understanding of such issues.

Third, the need to refine criminological expertise on sites of the local also points to an important aspect which has remained hidden in this research. This refers to how the policy talk and decisions are acted out by practitioners 'on the ground'. As the thesis has uncovered the potentiality for policy to be resisted and reworked across the levels of talk and decisions in national and subnational spheres, this further layer presents another point where actors can wrestle with, and contest, how policy is performed to suit a different set of agendas, values and social environments. As alluded to above, there are differences apparent in how different types of cannabis offences are processed by the criminal justice system, with possession 'offenders' more likely to be diverted away from incarceration. Whilst on the whole the findings suggest a 'mellowing out' of punitivism, it is entirely possible that in some subnational spheres more punitive responses to cannabis are employed. For example, the use of stop-and-search in London for low level drug offences is well noted (Eastwood et al. 2013).

Fourth, the move away from a state-centric crimino-logic and the importance of governance in late-modernity also alerts us to the significance of taking account of structures existing above the state. Of course, this level has not been ignored in this research, and forms an important aspect of the cannabis policy process, but there was not the same level of in-depth examination of the policy process, either at the European or global level. Given that the international conventions do provide arguably one of the most powerful mechanisms for the perpetuation of a prohibitive approach, research examining movements at this level are of central importance in seeing how future windows of opportunity may open or be blocked from imagining alternative approaches (see TNI 2014; Room et al. 2008; Global Commission on Drug Policy 2011).

Finally, in moving forward with criminological inquiries, comparative research encounters a set of opportunities and challenges, which if met and mitigated respectively, could allow for criminological research to provide meaningful expert knowledge on contemporary responses to crime. The domain of crime and its control across different liberal democracies poses problems of how different actors and agencies recognise and place meaning upon social phenomena. This speaks to a perennial problem of comparative

research, and one which has been grappled with throughout this research, of how to talk across different cultural settings to address the nature of convergence/divergence in problems, and suitability of adopting particular approaches in addressing such issues. Certainly, this research has contributed towards this goal and the methods utilised served this purpose, but an alternative methodological technique which may address such issues is the 'Delphi Panel' method advanced by Edwards et al. (2013a; 2013b).

Relating back to the core area of interest to this study, that of cannabis and substance policy, there are potentialities to combine this method with a harm assessment framework such as the one developed by Greenfield and Paoli (Greenfield and Paoli 2012; Greenfield and Paoli 2013; Paoli et al. 2013) to identify a shared understanding of the scale and severity of harms and attempt to generate consensus amongst expert participants on how substance policy *ought* to be governed. This latter notion that criminological research does not only deal with questions of what *is* but also with what *ought* to be brings us on to discuss, reflect and engage with the normative dimension regarding drugs policy and crime control.

8.5 Reflexivity, being 'Critical' and the Normative Dimension of Criminological Research

An important facet underpinning this research project is the notion of reflexivity. Jupp (2006:345) argues that this '...is concerned with the social production of knowledge. It involves reflecting on the various social roles, interactions and processes which resulted in the kinds of observations and conclusions that emerged'. It is not unusual for researchers to engage in topics with which they feel connected to and have an interest in. In fact it would be strange for a doctoral study not to be on an area with which the researcher resonates with if they are to spend at least three years devoted to its study.

In a reflexive spirit, whilst the works of Becker, Young and others writing at the time of the National Deviancy Conference now seem rather dated in criminological history, they have influenced the way in which I have thought about cannabis as a 'drug', as opposed to alcohol or tobacco, which are still largely seen outside the scope of what 'drugs' are, and how they should subsequently be responded to. Having been socialised into a culture of cannabis consumption, and been involved in the 'other side', it led to a critical thinking about the seemingly oppressive legislation on users concerning cannabis and how policy is made.

Similarly, throughout the thesis and wider criminological literature on developments in crime control there is an underlying assumption that the culture of control is negative, that

such 'dystopic' visions represent an undesirable set of conditions (Zedner 2002). The existence of an ambivalent duality between the loss of rationality in political decision-making coupled with particular bounded rationalities based upon economic reasoning and risk management presents a set of problems for the criminological academy and critical studies of crime control. It has been challenged on knowledge production and legitimacy by the rise of populist punitivism and 'silenced' by a managerialist 'what works' agenda (see Casey 2008; Sherman 2009; Hope 2009; Tilley 2009; Hillyard et al. 2004). Broadly, in British criminology (and further afield) there appears to be a general implicit feeling that views such developments as negative, and this suggests that, whether overtly admitted to or not, there are critical judgements made about virtue and vice in responding to criminality and drugs and the types of knowledge that *should* guide policy.

I would argue that being critical is a fundamental component of the criminological enterprise. This means that criminological knowledge should not be shackled to, and merely legitimise, governmental conceptualisations and framing of social behaviours. So this raises the question of what being critical in social science means, and what it can do. It does not merely suggest critique of the social world, but it should also entail a postulation about what we want fundamental societal values to be based upon. What is the point of stating that the social environment is unsatisfactory without some idea of what is desired?

To conceptualise well-being also requires a need to think about ill-being; about practices and structures which discriminate, oppress, or harm individuals. Here, a realist understanding of a stratified ontology serves a worthy, if not extremely difficult, purpose which deserves future examination. Importantly, we must remain open to the task of explicitly attempting to identify powers and generative mechanisms which cause the existence of social phenomena. Doing so opens up the possibility for being critical in a transformative sense. Indeed, as Bourgois and Schonberg (2009:297) strikingly remark, '...policy debates and interventions often mystify large-scale structural power vectors and unwittingly reassign blame to the powerless for their individual failures and moral character deficiencies'.

Set in the context of crime and drugs control, the need for reimagining the landscape is necessary given that existing policy responses have seemingly given way to a plethora of approaches spanning economic reasoning, harm reduction and populist-driven response set which either attempts to displace moral and ethical arguments to cost-benefit analysis, or which is conceptualised around a morally-conservative 'law and order' politics which increases inequalities and contributes towards social exclusion.

In the context of the growing influence of populism and calls for greater democratic legitimacy and transparency in decision-making, criminology and the social sciences cannot afford to sit idly by. We should strive towards providing rational and critical observations which engages with problems both of concern to the government and public, as well as revealing hidden issues and wider oppressive structures. Certainly, with greater shifts towards liberalisation, we should be cautious of the effects of new structures and frameworks, and who the new 'players' are in cannabis regulation (Caulkins 2014).

This involves communicating and informing individuals at different levels, be it political agents or lay citizens. If criminology cannot claim a monopoly on knowledge (and in some ways, rightly so), then it must engage in a type of 'public criminology' which disseminates and advances knowledge claims throughout society, not only by appealing to policy entrepreneurs, but also by captivating the imaginations of individuals and agencies in the public and private sphere (Burawoy 2005; Hughes 2007; Loader and Sparks 2010).

If we are to move forward with criminology and social science in an era where expert knowledge is placed alongside popular conceptualisations, then it is necessary for criminology to '...acknowledge its often hidden or repressed premise – that its evaluations of practices imply a conception of human flourishing' (Sayer 2011:245). Therefore, a social science which can reduce illusions of conceptual understandings of social phenomena can seek to reduce unnecessary harm and suffering (Bhaskar 1986).

Policy Implications

In relation to this research, through highlighting the contingencies of public policy making, this suggests that different societies are not inevitably heading in the same (punitive) direction. This opens up possibilities for progressive change both in the broader remit of crime control, but also specifically with cannabis and drugs policy. In the context of dispersing power and a 'hollowing out' of the state (Jessop 2004), there are opportunities for enhanced collaboration between experts and devolved governments in developing policy and legislation. Within Welsh Government, in the rhetoric at least, this has been consistently stated as an aim (Quinn 2002).

Much of the valuable components contained in the Dutch approach to cannabis have spawned from the relations between municipalities and central government, whereby dealing with the pragmatic realities of cannabis and drug use provides an innovative environment in which to develop policy initiatives. However, as this research has

demonstrated, understanding policy requires an understanding of the geo-historical contexts in which events take place. For example, an approach that may work in Utrecht or the Netherlands will not necessarily translate equally in Cardiff and the UK.

With drugs policy, the licit/illicit divide is fairly arbitrary, and as academic researchers we should not obfuscate the effects of the policy environment upon substance users in favour of a naïve acceptance of current paradigms. Instead, a more useful way to assess the impacts of substance use in society could be through the concept of harm. This has been attempted within the natural sciences in both England & Wales and the Netherlands, and such attempts have demonstrated the fallacy of the harm-criminalisation relationship (Nutt et al. 2007; van Amsterdam et al. 2009). Moreover, an innovative example of this type of work within criminology can be seen with Paoli et al.'s (2013) application of their harm assessment framework to cocaine trafficking, which took into account the effect of prohibition itself upon the production and severity of harms. The 'Welsh approach' to substance misuse has taken important strides forward, but remains locked into a restrictive paradigm. For an approach to be truly harm-reductive, this should embrace a wider definition of harm production, to inwardly look at the system itself and evaluate how it contributes to harm.

However, we should be hesitant to presume that because the Welsh context currently exhibits a more 'sympathetic' perspective than England concerning crime and substance misuse that it should continue doing so following the transferral of more powers. With more power comes more responsibility, and more accountability to the public. As McAra (2006:142) has noted regarding developments in Scottish youth justice, 'carrying the weight of political expectation' has also coincided with a process of 'de-tartanisation' whereby politicians face similar pressures to that in Westminster because they have added responsibilities and are accountable to the public, thus falling prey to perceived calls for more punitive measures from the media and public.

The real challenge therefore is how to protect institutions from more irrational and punitive forces which do more harm than good. This again relates to the issue of populist punitivism and how to engage the public to view issues beyond a culture of fear and intolerance. This goes way beyond the issue of cannabis or crime, but hits a root nerve of a crisis of collective solidarity and identity which neoliberal philosophies have deteriorated. Moreover, it also relates to a narrowing of problem construction which frames issues around 'problematic' populations without a questioning of powerful actors and the structures which generate inequalities. It may not be possible to return to a former state of welfarist-based affairs (which was probably overly rose-tinted), but following Michael Sandel (2010), there

needs to be a (re)invigoration of a politics of the common good; one in which individuals operating across society think beyond their immediate environments to consider larger societal stakes.

8.6 Conclusion

In summary, this piece of research has sought to exemplify the worth of the sociological (and criminological) imagination in illuminating contemporary responses to the control of cannabis. The main findings echo other commentators' concerns with grand sociological narratives which, although have been shown to be useful in mapping the broad transition from modernity to late-modernity, fail to take into account the contingent components which allow for policy to be resisted, reworked, or even refuted in preference for alternative values and policy directions (Tonry 2009; Edwards and Hughes 2005; Edwards et al. 2013a). Moreover, the research has highlighted how differences between policy at different levels in different spheres of governance is moulded in competing ways, again highlighting complexities and messiness in policy responses.

Through a rigorous methodological approach which has recognised and supported a reflexive framework in the conducting of research, it has been possible to generate a more thorough understanding of a subject area which has increasingly crept into the public domain and plays upon emotional and moral tones. At a time where issues of crime and illicit drugs are hotly contested issues, it brings forth the question of how we want them to be governed, and what knowledge that governance is based upon. Through critically building upon Garland's culture of control, it has been possible to identify how divergence from punitive strategies is facilitated. In attempting to advance the 'flourishing' of the human condition (Sayer 2011), it is of my view that criminology *could*, and *should*, be of central importance in informing such debates.

Appendix

Chapter 2

Table 2.1 *The Pillarisation of Dutch Society c.1960. Source: Bryant (1981:57)*

PILLAR	INSTITUTION			
	PRIMARY SCHOOL	PARTY	TU	TV ¹
1 RC	RC	CATHOLIC PEOPLE'S (KVP)	RC (NKKV) ²	RC (KRO)
2 ORTHODOX CALVINIST (Rereformed & strict DR)	PROTESTANT	CHRISTIAN HISTORICAL UNION (CHU) ³ ANTI-REVOLUTIONARY (ARP) ⁴	PROTESTANT (CNV)	PROTESTANT (NCRV)
3a GENERAL: mainly BOURGEOIS LIBERAL/CONSERVATIVE (liberal DR & no religion)	PUBLIC	PEOPLE'S PARTY FOR FREEDOM & DEMOCRACY (VVD)	⁵	GENERAL (AVRO) LIBERAL (VPRO) ⁶
3b SOCIALIST (liberal DR & no religion)	PUBLIC	LABOUR (PvdA)	SOCIALIST (NVV)	SOCIALIST (VARA)

1. In addition the NTS, owned jointly by the pillarised broadcasting associations, provided programmes intended for all pillars.

2. From 1964.

3. Mostly DR and in origin more of a middle class party.

4. Mostly Rereformed and in origin more of a party of the 'little people'.

5. The very small liberal NVC organized higher civil servants and some other white-collar workers.

6. In origin liberal Protestant.

Table 2.2 *Pendulum Consociationalism. Adapted from: Pennings and Keman (2008:175)*

Rules of the game until 1967 (Lijphart 1968)	Rules of the game 1967-1977 (Daalder 1974)	Rules of the game 1977-2001 (van Praag 1993)	Rules of the game after 2001 (Pennings and Keman 2008)
The business of politics	Exposure of 'establishment ideology'; critical view of society	The business of politics	Exposure of 'Establishment'; critical view of bureaucracy and party cartels
Agreement to disagree	Conflict	Agreement to disagree	Conflicts enter inter- and intra-party politics and debates on particular issues (i.e. ethnic minorities, European integration)
Summit diplomacy	Self-determination at the base	Selective summit diplomacy	Selective summit diplomacy
Proportionality	Polarisation	Proportionality	Polarisation and catch-all-ism

Depoliticisation	Politicisation	Symbolic politicisation	Politicisation
Secrecy	Open government	Selective publicity	Dominant government with an 'open' image building
The government's right to govern with little interference from Parliament	A critique of 'the decline of Parliament', 'the Fourth Branch of government', etc.	Pivotal role of governing party	Pivotal role of governing party and tendency towards Monism in practice
		A change in government composition is followed by elections	A change in government compositions is not always followed by elections
		The largest governing party appoints the Prime Minister	The largest governing party appoints the Prime Minister and the other governing parties the Deputy Prime Minister

Chapter 4

Table 4.1 Summary of Participants

	England & Wales		The Netherlands	
	National	Local	National	Local
Academics/Researchers⁹⁴ (Advisory Committee)	8 (3)	0	8 (4)	0
Non-Government Organisations⁹⁵	3	1	4	1
Politicians	1	2	1	5
Political Advisors	0	0	1	3
Civil Service^{96, 97} (Advisory Committee)	2 (1)	3	4 (3)	0

⁹⁴ These including a broad group of academics and researchers operating in the fields of social sciences/criminology, health and media studies.

⁹⁵ Including 'think tanks' and third-sector drug agencies.

⁹⁶ In the Netherlands, this included the Ministry of Health, Welfare and Sport; the Ministry of Security and Justice; and the Public Prosecutor's Office. In England & Wales this included the Home Office.

⁹⁷ Including working for the local authority at the subnational level.

Police⁹⁸	4	3	3	1
Public Prosecutor's Office	0	0	4	1
Sub-Total	18	9	24	11
Total	27		35	

Table 4.2a Participant Key for In-Text References

Key	
England & Wales/The Netherlands	EW/NL
Academics/Researchers	A
Advisory Committee (Criminal Justice; Health)	AC (CJ; H)
Non-Government Organisation	NGO
Politicians/Political Figures	P
Political Advisors	PA
Civil Service	CS
Police	POL
Public Prosecutor's Office	PP

Table 4.2b England & Wales In-Text Participant Key

England & Wales In-Text Participant Key	
EW-POL-CS1	South Wales Police and Welsh Government
EW-POL1	Former Chief Constable and ACPO Lead on Drugs
EW-A1	Academic Expert in Criminology
EW-CS-H1	Substance Misuse Policy Worker, Cardiff and Welsh Government
EW-A2	Academic Expert in Criminology and Former Home Office Researcher
EW-A-AC-H1	Former Chair of the ACMD
EW-NGO1	Former UKBA and Member of National Drug Prevention Alliance
EW-CS-H2	Substance Misuse Action Team, Cardiff
EW-CS-H3	Senior Civil Servant, Welsh Government
EW-CS-H4	Senior Civil Servant, Welsh Government
EW-NGO2	Third-Sector Organisation
EW-A3	Academic and Former BBC Home Affairs Correspondent
EW-CS-CJ	Former Senior Home Office Civil Servant
EW-P3	Liberal Democrat MP, Wales
EW-POL-CS2	South Wales Police, Welsh Government and ACPO Cymru
EW-P1	Senior Political Figure

⁹⁸ At the national level this refers to current and former representatives from ACPO in England & Wales, and in the Netherlands this pertains to current and former representatives from KLPD and the Dutch Police Union.

EW-A4	Academic Expert in Criminology
EW-A-AC-H2	Former Chair of the ACMD
EW-A5	Academic Expert in Criminology
EW-POL2	Police Constable, South Wales Police
EW-POL6	Police Constable, South Wales Police
EW-POL3	Neighbourhood Team Supervisor, South Wales Police
EW-P2	Labour MP, South Wales
EW-NGO-AC	Independent Drugs Policy Organisation and Former ACMD member
EW-A6	Academic Expert in Psychiatry
EW-NGO3	Third-Sector Drugs Worker
EW-POL4	Former Chief Constable and ACPO Lead on Drugs
EW-POL5	Former Chief Constable
EW-CS-CJ2	Former Senior Home Office Civil Servant

Table 4.2c The Netherlands In-Text Participant Key

The Netherlands In-Text Participant Key	
NL-A-NGO1	Independent Research Organisation and Drugs Worker
NL-CS-AC-CJ	Senior Civil Servant in Ministry of Security and Justice and Member of van de Donk Committee
NL-A-NGO2	Independent Research Organisation
NL-A1	Academic Expert in Social Sciences
NL-A-AC-CJ	Academic Expert in Criminology and Member of the van der Donk Commission
NL-A2	Academic Expert in Criminology
NL-PA1	Political Advisor, Utrecht
NL-A-AC-H1	Academic Expert in Health and Member of van der Donk/Garretsen Commissions
NL-NGO1	Drugs Policy Reform Organisation and Psychiatrist
NL-A-AC-H2	Academic Expert in Health and Chair of Garretsen Commission
NL-POL1	Former Chief of Police and President of the Dutch Police Union
NL-PP1	Policy Worker, Public Prosecutor's Office
NL-POL2	KLPD and Organised Cannabis Cultivation Taskforce
NL-CS-AC-H1	Senior Civil Servant in Ministry of Health, Welfare and Sport and Member of Garretsen Commission
NL-P6	D'66 Politician, Utrecht
NL-A-NGO3	Independent Research Organisation

NL-P1	D'66 Politician, Tweede Kamer
NL-P2	VVD Politician, Utrecht
NL-POL3	KLPD
NL-P3	PvdA Politician, Utrecht
NL-A-CS	WODC
NL-PA3	Policy Advisor to the Mayor, Utrecht
NL-PP2	Public Prosecutor, Limburg
NL-PP3	Policy Worker, Public Prosecutor's Office, Limburg
NL-POL4	Utrecht Police
NL-NGO2	Drugs Policy Reform Organisation
NL-PA4	D'66 Policy Advisor
NL-A3	Academic Expert in Criminology
NL-CS-CJ	Civil Servant in the Ministry of Security and Justice
NL-PP4	Policy Worker, Public Prosecutor's Office
NL-P4	CDA Politician, Utrecht
NL-P5	D'66 Alderman, Utrecht
NL-CS-AC-H2	Senior Civil Servant in the Ministry of Health, Welfare and Sport and Member of van der Donk Commission
NL-PP5	Policy Worker, Public Prosecutor's Office, Utrecht

Table 4.3 *Example Interview Schedule: Police, Subnational Level, the Netherlands*

Interview Schedule
<p>Section 1: The Police and Cannabis Policy in Utrecht</p> <p>1.1 Background information</p> <p>1.2 What are the problems with cannabis in Utrecht, if any?</p> <p>1.3 How are decisions made on cannabis policy at a local level? (probe about relationship between police, prosecution and mayor)</p> <p>1.4 What factors influence these decisions? (probe about political representation)</p> <p>1.5 Where does cannabis lie in police priorities? (cultivation vs. possession)</p> <p>1.6 What is the role of the police in Utrecht's soft drugs policy? (checking coffeeshops; 'back-door')</p> <p>1.7 How are decisions regarding police resources/priorities decided?</p> <p>1.8 What is the (potential) impact of the nationalisation of the police? (probe about national vs. local agenda-setting – accountability)</p> <p>Section 2: Revisions to Coffeeshop Criteria</p> <p>2.1 What was the reaction from Utrecht to the policy measures announced in 2011? – Why?</p> <p>2.2 What was the reaction from Utrecht to the revised policy measures announced in 2012? – Why?</p> <p>2.3 What is the relationship between national and local levels of policy-making? How much room for manoeuvre is given? Why?</p> <p>2.4 How have the new policy measures been put into local policy?</p> <p>Section 3: On-Going Developments</p> <p>3.1 How will the introduction of the THC measure be put into local policy? What is the position of the police towards this?</p> <p>3.2 What is the situation regarding the Social Cannabis Club Domstad? What is the position of the police?</p> <p>3.3 What do developments in cannabis policy over the last few years say about the nature of Dutch drugs policy?</p>

Table 4.4 Example of a Simplified Coding Framework and Main Themes: The Netherlands

Problem Stream		Policy Stream		Political Stream	
Cannabis as a criminal justice problem	i) problems with existing policy ii) organised crime – increase in demand; transformation of cultivation; characteristics/effects; importation/exportation; cultivation; law enforcement activity iii) coffeeshop criminality	Reshaping of political values	i) decline of gedogen ii) shift to criminal justice iii) international pressure and agreements iv) polarisation of standpoints v) resilience of market separation	Changes in administration and political needs	i) Rutte I ii) Rutte II
Cannabis as a public order problem	i) nuisance – definitions/characteristics ; growth in foreign visitors; local variation; geographical issues	Party political values	i) VVD ii) CDA iii) PvdA iv) D'66 v) Left vi) Centre vii) Right	National mood	i) Rutte I ii) Rutte II
Cannabis as a health problem	i) mental health and harm ii) growth in strength iii) youth consumption	Political culture	i) the politics of coalitions ii) civil service culture iii) local power in policy-making	Organised political forces	i) mayoral and municipality resistance – Rutte I; Rutte II ii) health/criminal justice iii) polarised policy coalitions iv) coffeeshop owners v) alcohol industry
Cannabis as a social and moral problem	i) normalisation ii) moralisation	Research and expertise	i) research – van der Donk Committee; Garretsen Committee; other ii) relationship to policy – problem-solving; political needs; coalition policy legitimisation		
Cannabis as a Rutte I problem	i) policy success ii) criminality/nuisance iii) separation of markets iv) municipality resistance	Technical feasibility	i) international regulations ii) domestic legislation iii) policy legitimacy iv) accountability		
Factors shaping problem definition	i) criminal justice – innocence of cannabis; shift to criminal justice; international dynamics and pressure ii) public order iii) health – cannabis as a soft drug; cannabis as a dangerous drug iv) social/moral	'Policy Primeval Soup'	i) general Rutte I ii) residency and closed club trial iii) school's distance criteria iv) residency criteria (Rutte II) v) THC division vi) cultivation experiments vii) closure of all coffeeshops viii) coffeeshop outplacement		

Chapter 5

Figure 5.2 *Out-of-Court Disposals as a Percentage of Offences Brought to Justice, 2002-2011.* Source: Sosa (2012:3)

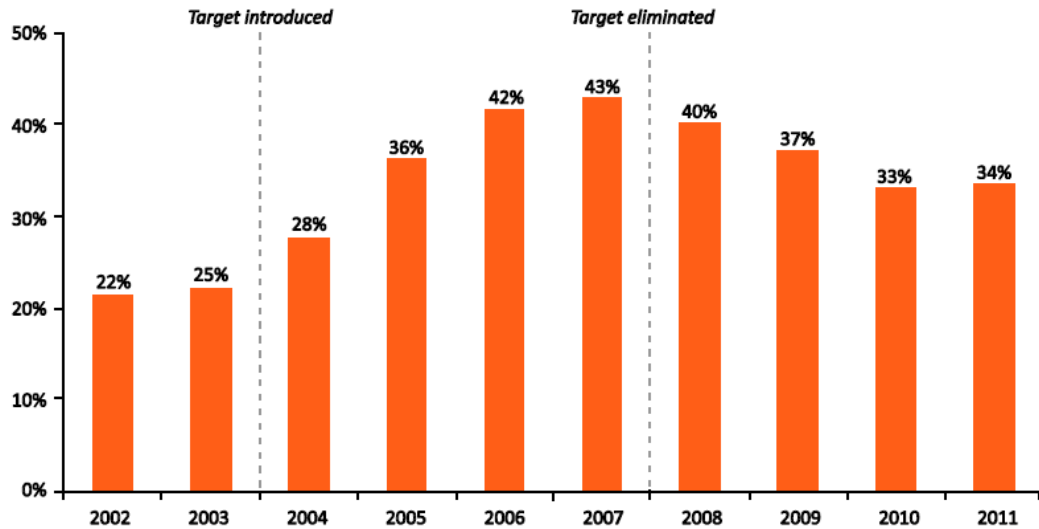


Figure 5.3 *Cannabis Seizures 2003-2012/13.* Adapted from: Home Office (2013a)

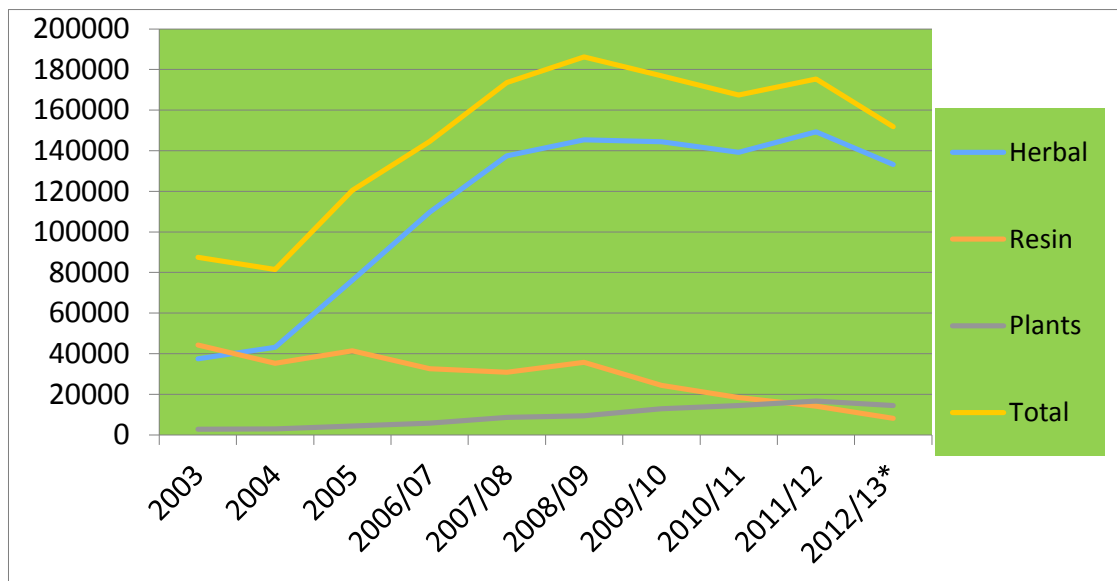
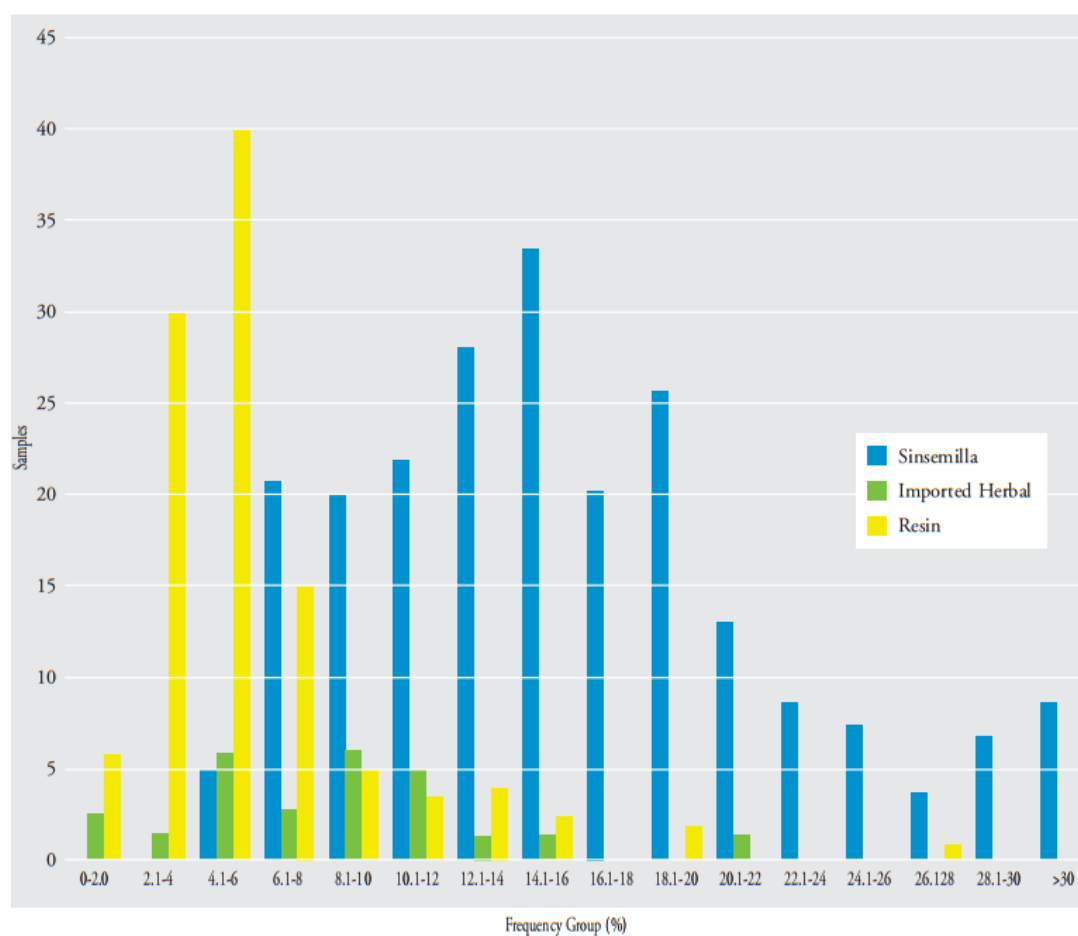


Figure 5.4 *Distribution of THC concentration in cannabis samples in England & Wales*. Source: Hardwick and King (2008:12)



Chapter 6

Figure 6.1 THC concentrations in Dutch weed (most popular variety) ['nederwiet']; strongest weed ['sterkste']; and imported weed ['geïmporteerd']. Source: Niesink and Rigter (2013:25)

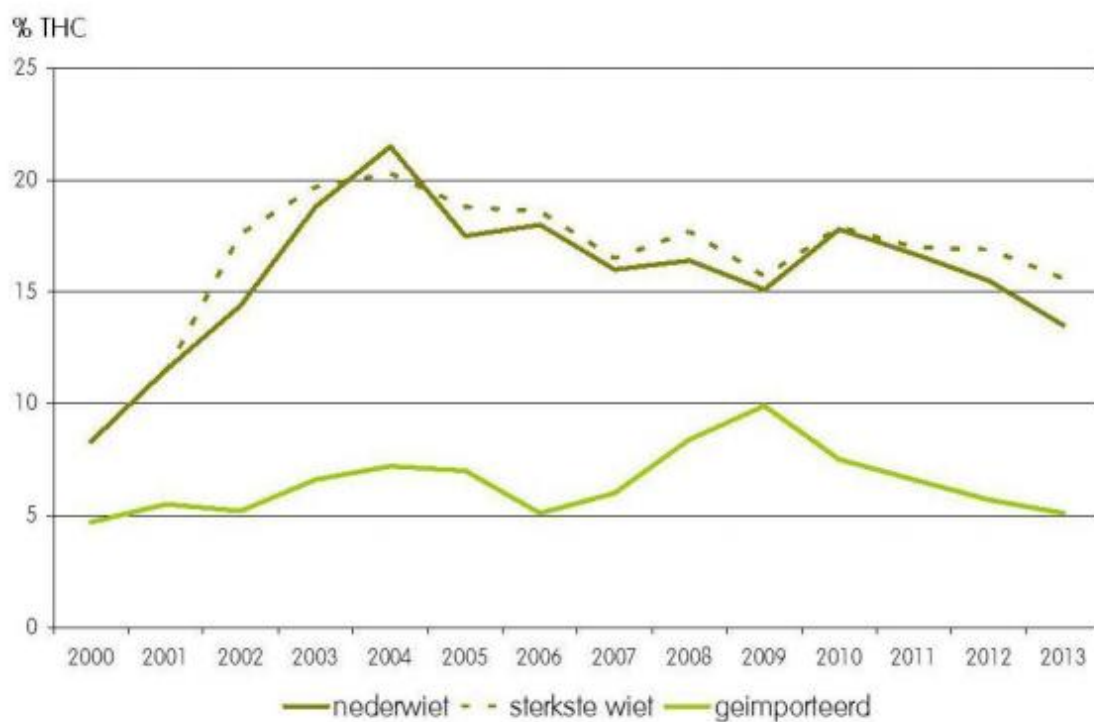


Figure 6.2 THC concentrations in various cannabis samples: 'sterkst' [strongest weed]; 'populairst' [most popular nederwiet]; 'geïmporteerd' [imported]. Source: Niesink and Rigter (2013:22)

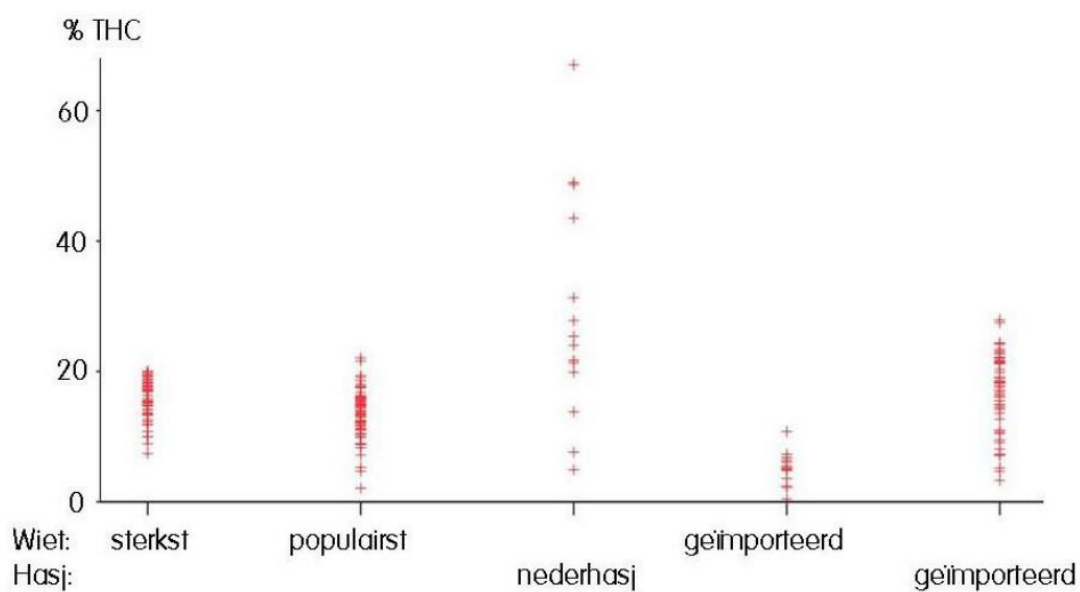


Figure 6.3 Number of Cannabis Users Requesting Help 2002-2011 in the Netherlands. Source: Wisselink et al. (2012)

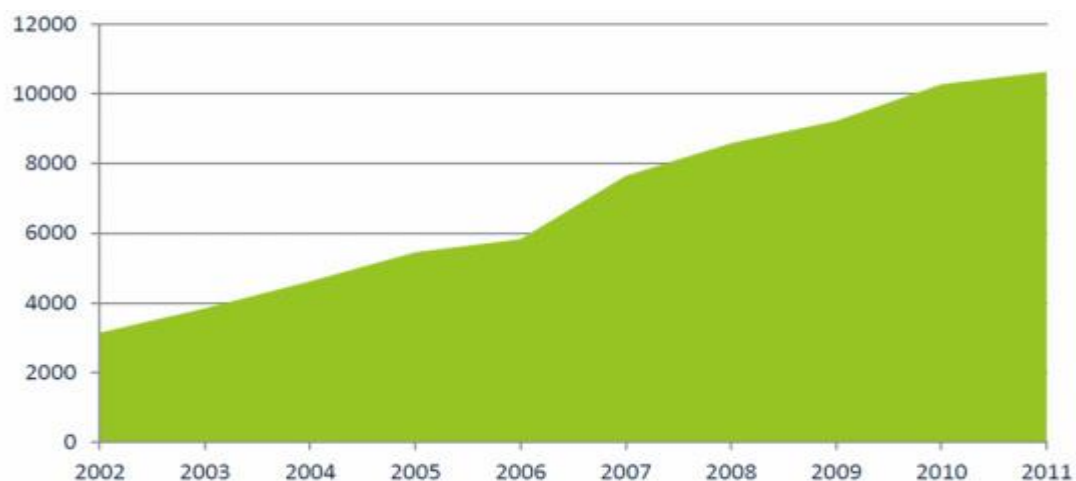


Figure 6.4 THC concentrations in Dutch hashish ['nederhasj'] and imported hash ['geïmporteerde hasj']. Source: Niesink and Rigter (2013:25)

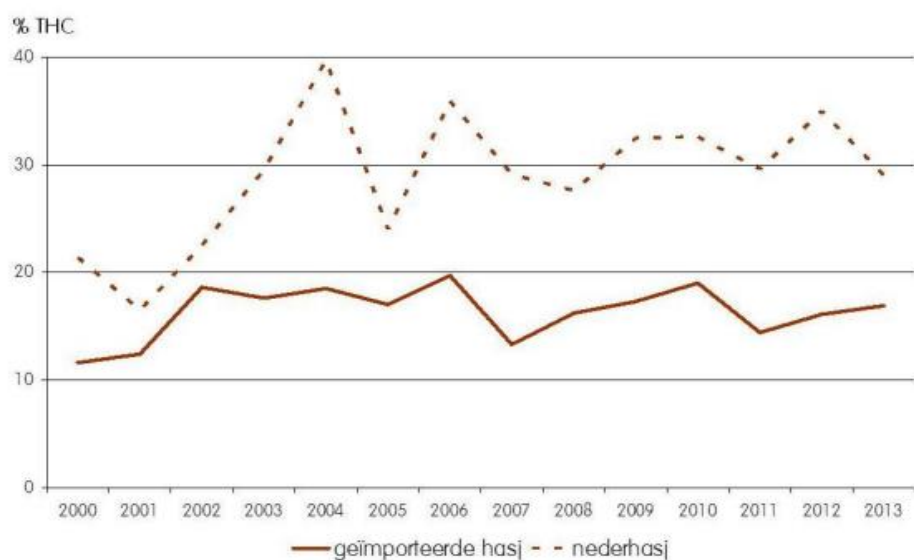


Figure 6.5 Policy Matrix. Source: Advisory Committee on Drug Policy (2009:42)

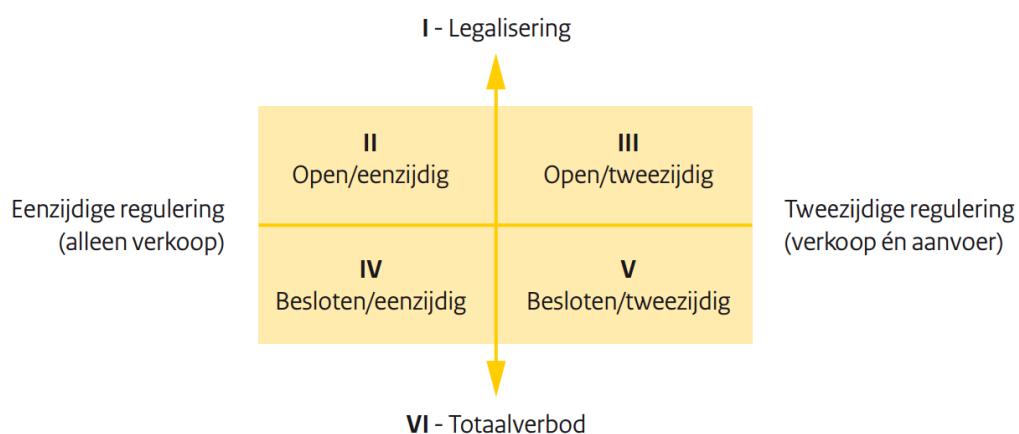


Table 6.2 Overview of Political Perspectives towards Cannabis Policy of Parties in Rutte I and II

VVD	The <i>Volkspartij voor Vrijheid en Democratie</i> ('People's Party for Freedom and Democracy') is a centre-right party which is an ardent support of libertarian values, such as being pro-euthanasia and pro-abortion, but one which has increasingly attempted to redefine itself as the 'law and order party'. With regards to cannabis and drugs, this has brought to light a glaring divide and ambivalence even within the same political party. Liberal notions relating to free trade and consumption are ambivalently counterbalanced with a strong priority on safety (and security) which has become a 'main political issue' [NL-A-NGO2].
CDA	The <i>Christen Democratisch Appel</i> ('Christian Democratic Appeal') is a centre-right party and has traditionally been against liberal reforms to cannabis policy, instead advocating measures which reduce the numbers and visibility of coffeeshops, attempting to instil a moral perspective that the consumption of cannabis should be de-normalised on the basis that it limits meaningful participation in society.
PVV	The <i>Partij voor de Vrijheid</i> ('Party for Freedom') is a populist right-wing party which adopts a tough position on issues such as immigration and law and order. The preferred types of policy measures towards crime are clear-sounding, even adopting the rhetoric of US-style 'three strikes and you're out' (see PVV 2010). Moreover, the PVV is distinctly against <i>gedoogbeleid</i> as a way of responding to problems; rather the solutions should be clear. In the realm of drugs, this translates into a disdain for distinguishing between 'hard' and 'soft' drugs, and combined with a law enforcement focus, attention is on how to tackle drug-related crime.
PvdA	The <i>Partij van de Arbeid</i> ('Labour'/Social Democratic Party) is a centre-left party which suggests that cannabis policy proposals should look at better regulation of coffeeshops rather than a tougher and more repressive approach. There is clear alignment with the belief that coffeeshops provide a beneficial way to separate markets. PvdA approach the issue from a health-led harm-reduction perspective, and whilst firmly agreeing with other political parties that cannabis has become a more harmful substance, it believes that state regulation of the problem would lead to better quality control of cannabis.

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